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159/2

דוֹנְטִיִּיִּר

33. 10. 1932 (13. 10. 1932)
 עוני עבד אלהאדי - רצח יוסף ו

מדינת ישראל

ארכיון המדינה



עוני עבד אלהאדי - רצח יוסף ו

שם:

פ - 159/34

66.0/1 - 355

07/10/2008

02-112-08-02-01

אדם

לא

מזהה פיזי:

מזהה לוגי:

כתובת:

IN THE COURT OF CRIMINAL ASSIZE SITTING AT HAIFA.

BEFORE :- His Honour the Acting Chief Justice.
His Honour Judge C.R.W. Seton.
His Honour Judge Shafiq Dajani.
His Honour Judge Rafiq Abu Ghazaleh.

IN THE CASE OF :-

The Attorney General

v.

Ahmad Dib el Ghalayini.
Khalil Muhammad Issa.
Ahmad Muhammad Abd el Kader.
Ibrahim Ahmad el Haj Khalil.
Mustafa Ali el Ahmed.

Charge against Accused :-

1. Murder with Premeditation contrary to Art.170 of the Penal Code and Sec.3 of the Criminal Law Amendment Ordinance (No.2), 1927, of Yusuf Yacoubi and his son David.
2. Murder with Premeditation contrary to P.C. Art.170 and C.L.A.O. No.(2), 1927, S.4.

For Prosecution :- Elliott, A/S.G.

For (1) and (2) :- Asfour.

For (3) and (4) :- Kattan.

(5) does not desire to be defended by an advocate.

Bernard Joseph - for Civil Claimant :- I appear for the widow. I claim £.250 for her husband. I claim £.250 for her son.

Revised Information dated 15th September, 1933, read.
(Slightly amended by Court).

Asfour :- A.G. v. Suliman Farash. Two charges: (1) Actual killing; (2) Common intent to do unlawful act: murder committed in execution of such purpose. The two charges are inconsistent, because Ch.1 involves an intent to kill the Yacoubis: Ch.2 an intent to kill Jews in Palestine.

COURT :- He. Ch.1 does not charge intent to kill the Yaccubis. Overruled.

(Intd) C.C.K.C.

All Accused Plead Not Guilty.

A/S.G. opens case.

W.1.

Shoulamith Yacobi.

Sworn.

Widow of Yusef Yacobi. On 22nd December, 1932, I was living at Mahalal with my husband and children: in a house on outskirts of H. My children were David, aged 6.1/2, and a girl. The house has two rooms, a kitchen and a verandah. We all slept in one room: there is one door leading into the other room and two windows. We went to sleep. I heard two knocks. I could not make out where they came from. I said to my husband "something is knocking". He went to the kitchen and returned saying "Everything is in order". He went to sleep again. Then I heard a heavy knock. I said to my husband "Yacobi, the lamp is broken". He said "It is true". He got up saying "What is happening in this house, there is smoke under David's bed". He bent down to see what was burning under the bed. At that moment there was a heavy explosion. The house was full of smoke. Yacobi shouted "This took off all my hand". I got dressed, lit the lamp and went out. A crowd came. My son also was wounded. They were taken to hospital. My child died next day - in the evening: my husband - three days later. They had been taken to Hadassa Hospital, Haifa.

X.Xd. by Asfour for 1 and 2:- The whole event took place between 9 and 10 p.m.

X.Xd. by Kattan for 3 and 4 :- From the time I first heard knocking to the explosion, I cannot say: I went to sleep. It was between 3/4 and 1 hour. I spoke to my husband in an ordinary voice each time.

To Court : The knock I heard was similar to the breaking of a lamp glass. I heard a sound like a knock and the break

of glass at the same time. There was a lamp alight near David's bed. If there were shutters they were not shut. There was a small curtain on the window. There was nothing to prevent people from looking in through the window and seeing who was in the room. The windows were closed. I did not notice if a pane was broken; I was away for a fortnight: When I got back everything was mended.

By S. No questions.

Re Xp. Nil.

W.S.

Luba Kaufman.

Sworn.

I am a medical practitioner at Hadassah Hospital, Haifa. I graduated at Jena, Germany. On 22nd December, 1932, I was on duty in the hospital. Yusef Yacobi, aged 41, and his son David, aged 9, were brought in that day. I examined Yusef; I made a report from which I am refreshing my memory. I found :-

1. On right side of head wound 8 cms long: 4-5 cms wide.
2. Fracture of skull 3 cms long.
3. Burning of the eyebrows.
4. On left side of skull: wound 3 cms long and 3-4 cms wide: with small fracture of skull.
5. The 4 fingers of left hand were cut off.

He was alive when I first examined him. He died on 27th December, 1932: I was then in the hospital. Cause of death was cerebral shock and infection of wound due to shrapnel. Yusef was unconscious all the time. The wounds were the cause of death. The wounds were due to a bomb. There was burning of the hair and face. I examined the body after death to satisfy myself that he was dead. I did not make a post-mortem examination.

I examined David Yacobi. I found :-

1. Wound on right side between 9th and 10th ribs. This was the only external wound. He was operated upon.
2. I found cut in the lung: right side.

Ex. LK/3.

3. I found in lung a piece of metal. This is it. I was operating with another doctor. I do not now remember which of us found the metal in the lung. I handed LK/3 to Police Officer Basta. David Yacobi's liver was torn. He died on 23rd December after operation. Cause of death was haemorrhage due to the wounds.

X.Xd.by Asfour :- The two were brought into hospital at 11.30 p.m. I knew of the incident before they arrived; by telephone information from Mahalal: about 40 minutes or 1 hour before they were brought in. They were brought in a lorry on their own beds. I did not make a report of the telephone conversation. I spoke on the telephone. After 10.

Per 3, 4 and 5 :- No X;Xn.

No Re Xn.

W.3.

Alfred William Riggs.

Sworn.

Assistant Superintendent, C.I.D. On morning of 23rd December, 1932, I went to Mahalal: to a house. I formed the opinion that a bomb had been thrown into the house. The floor had a hole in it, which appeared due to an explosion; and the windows were broken. I picked up 23 pieces of metal which appeared to be fragments of a bomb. I put them in an envelope marked A.W.R.(Y). I later examined the hole under the floor boards and found 6 more pieces of metal and three pieces of rock. I put these in an envelope marked A.W.R.(X). These are the 23 pieces I found in the room. Pieces produced: placed in envelopes labelled

A.W.R.1 (b)
A.W.R.1 (c)
A.W.R.1 B
A.W.R.1 (f)
A.W.R.2.
S.J.F.11.
A.W.R.1.

these are the six metal pieces and 3 pieces of stone I found under the floor boards. Envelope marked A.W.R.2(a). I handed all these exhibits to Capt. Rice the same day.

X.Xd. for 1 and 2:- The statement in the deposition that I handed them to Capt. Rice on 6.1.33 is an error. I handed all the pieces to him on the 23rd December: at Nazareth Police Station. On the 23rd I looked for tracks: found none. I also saw trackers working: not under my command.

For 3, 4 & 5:- Re X.Xd.

Re Xd. F i l .

W.4. Mayer Kleinman. Inspector of Police, Haifa. Sworn.

A.W.R.1. Capt. Rice handed me on 6.1.33, Exh. A.W.R.1. This exhibit consists of pieces of an exploded bomb: 23 or 24 pieces. These are they, marked -

A.W.R.1.
A.W.R.1 (d)
A.W.R.1 B
A.W.R.1 (f)
A.W.R.1 (b)
S.J.F.11.
A.W.R.1 (c)
A.W.R.2.

together
made up.

Altogether 24 pieces. I formed the opinion that these were parts of a 2" cap: of a 2" nipple: of a reducer from 2" to 1 1/2": of a 1 1/2" nipple: of a small cap of 1 1/2": and other small pieces forming contents of bomb. I was also handed A.W.R.1(c). A.W.R.1(f) was then only one piece. It has got broken into two. A.W.R.1.B, A.W.R.1(d) and LK/3 together make up a cap 2" in diameter. I enquired and found that such articles were imported by Mr. Dizengoff. I made inquiries from Dizengoffs and was shown a catalogue and an account showing to whom they had sold 2" diameter caps of Japanese make. This led me to Zimmerman's shop. I there found four 2" Japanese caps: in cast iron. They had the same trade-mark as is to be seen on LK/3. I took one cap: this is it.

MK/4.

Adjd.

(Intd. C.G.K.C.

Resumed.

Musa Omran and Kats then showed me the bills of sale of caps by Zimmerman. In consequence, next day I searched

the shop of accused 1 and 2: in Jewish Quarter, Haifa.
 I found A.1 and A.2 working there: on 5.1.33. A.D.S.P.Basta,
 a P.O., an engineer and a mechanic were with me: Eugene
 Wilbushevitch: and Isaac Glikman. I sent a P.O. with A.2
 to search his house: A.1 remained with us. In the shop
 we found 19 nipples, of which MK/6 is one. Also a vice -
 MK/5. Also a piece of iron. Two other pieces.
 AWR1(b) is like MK/6. MK/6 screws into MK/4. MK/7 I
 compared with A.W.R.2. Accused's shop is small: for
 repairing gramophones, primases, lux lamps, keys, taps.
 I used to work as electrician. I am an expert in electrical
 appliances. MK/4 and MK/6 might be used in electrical
 power stations. I have worked at electrical work in
 conjunction with plumbers. I have never seen caps like
 MK/4 before I saw them in Zimmerman's. MK/7 had vice marks
 on it. These were made on MK/7 in my presence in A.1 and
 A.2's shop. On JFM/12 there are similar marks: and on
 AWR.1(c). AWR.1(b) has been cut with a saw. MK/7 is used
 in balconies, house, window fasteners. AWR.1: these pieces
 are part of a reducer: 2" to 1/2". There is a figure 2 on
 one piece of MKRR AWR.1 and part of 1/2 on another. AWR.1(e)
 is a 1/2" nipple. It can be screwed into a half inch cap.
 AWR.1(f) has suffered pressure. It has a 1/2" mark on it.
 It has a small hole bored in it. I afterwards took from
 Zimmerman another 3 xpx caps like MK/4. A.1 and A.2's shop
 is about 3.75 to 4 m long: 3 m. wide. The door opens on a
 street 3 m. wide. The vice was fixed to the table: and
 the boring machine. It would be impossible for one man to
 work at something in this shop without the other man knowing
 of it. Isaac Glikman, who was with me, left Palestine last
 Saturday.

Asfour :- T.U.I.C. 36. A.G. v. Foad Hejazi.

COURT :- Objection allowed. Where the prosecution desire
 to prove that a witness cannot be produced with a view to

MK/6.

MK/5
 MK/7.
 JFM.12

MK/7.

reading his deposition, notice should be given under Sec.38 of T.U.I.O., 1924.

X.Xd.by Asfour for 1 & 2:- I searched the shops of Accused 1, his father, Ali Ziban. I do not say that the marks on ABR.1(c) were necessarily made by vice MK/5. There may be similar vices in Palestine. Accused 2 was ~~not~~ present when I searched the shop.

Re X.Xn.by 3, 4 or 5.

To Court:- I did not find any 2" to 1 1/2" reducers, or 1/2" nipples or 1/2" caps in the accused's shop.

18.9.33.

Adjd.

(Intd) C.G.K.C.

19th Sept.

Resumed.

W.5.

Musa Umran.

Sworn.

(Speaks Turkish. Hadri Eff. Aides sworn to interpret truly).

I live at Haifa: the New Sq. I work at Zimmerman's: have done so for 4 years. I know accused 1: he is a client of Zimmerman's: has bought from them: he came three times to the shop. There was an interval of 10-11 days and then of two days. On the first occasion he asked about certain articles: I could not find what he wanted. 10-11 days later he came again: and again asked for the same articles. The price was too high: so he did not buy any. On the third occasion he said he wanted two pieces of the articles he had asked for. I answered that previously he had asked for 30. He said he only wanted two then. The goods he bought were like this: a cap. I sold two caps to accused 1: gave him a bill: he paid the cashier - 5 piastres. I recorded the sale in a book. This is it. The entry is No.251. "Takim - 50 mile". I wrote it: "Takim" means "caps": two or more). The date 6th November is written just below this entry: it relates to the entry, and was written when the sale took place. No names of any purchaser are written down: where payment is made in

MK/4.

MC/10.

cash, the purchaser's name is not written down. Later I went to the prison. I saw 10 or 11 people in a line and asked me to pick out the man to whom I had sold these caps. I picked him out: it was this man who is sitting in front of me: (A.1).

X.Xd.by Asfour:- I did not know the name of A.1 when he bought these caps: I knew his face and where his shop was: between the Arab and Jewish Quarters. Zimmermann's shop is in Station Street. I have known of A.1 for 4 years: as a client of Zimmermann's. When the P.C. came and inquired about these things, he did not suggest any names to me. There are many ironmongers' shops in Haifa: I don't know if they keep these caps. I can write taking: (Does so).

Re Xb. Yes, the third letter should be k not b:

To Court:- I did not ask A.1 what he wanted the two caps for. We sold about 20 of these caps to P.W.D. Some were missing: sold: I don't know to whom.

Re Xc. 1 1 1 .

V.6. Yehua Katz. Of Haifa. Sworn.

I work for Zimmerman: have done for 6.1/2-7 years.

I have seen the small accused in a turban before (A.1).

"e has been to Zimmerman's shop. He is a plumber. The last time he came to the shop he bought caps - two, I think: like this. Since I have been with Zimmerman he has not had any of these until 1931: he has had 20 pieces. They came from

Japan: we ordered them from Messrs.Dizengoff. I was later

called to Police Station and there identified A.1 as the person who bought the caps. When A.1 last came to the shop, he spoke about the price. I told him the price, 5 P.T. for the two pieces, was a fixed price. P.W.D. also bought about 20 caps. I do not remember any other purchaser. The Police took four caps.

X.Xd.by Asfour:- I have often passed A.1's shop. I used to

live over it. I don't know whether there is a sign-board over it or not. I knew A.I.'s father and brother. I am salesman in Zimmerman's. We have now in stock 30-35 Japanese 2" caps; and we have also some from England. When I went to make the identification I was separated from Musa Omran.

Re Id. We have received consignments of caps on three occasions. The caps from England were received about one month after I was at Police Station. Apart from England and Japan, we have not had any caps. The Japanese caps; we received the first order of about 30, in end of 1931; the second order of about 30 we received about six months ago. This cap is of Japanese make; there is a mark on it; and apart from that I can recognise the kind of cap.

To Court:- When the Police came and took four caps, we had received one consignment only of Japanese caps and no English caps.

W.7. Igon Berghelm. Sworn.

I am a commission agent. I know Dizengoff and Zimmerman. From July 1925 to December 1932 I was Dizengoff's agent in Haifa: orders from Haifa were placed through me. Dizengoff issues a catalogue and acts as agent for foreign firms: Japanese: Hamaguchi; Fukushima; and others. This is a catalogue of a Japanese firm of which Dizengoff was the agent in Palestine. I have ordered goods like this. I have supplied them to Zimmerman only; I do not remember how many.

AB/15. An order was made out. This is an order on Dizengoffs, form signed by me on inside, and the purchaser on the other. It is an order including several items. It includes thirty 2" caps:

MK/4. similar to the cap shown to me. The caps have a catalogue

AB/16. number 17. In the catalogue now shown to me item 17 is caps. This is a catalogue of Tobatts, a Japanese exporter or manufacturer of fittings. The date on the order is 31st

AB/18. July, 1931. It is numbered 1678.

AB/17
AB/18. This is an invoice: it relates to the order 1678.

WK/44

This invoice shows that the goods were shipped on 23rd September, 1931; and included 50 caps such as this.

WK/4.

Tobatta's trade mark is on the catalogue - a gourd. It is also on this cap. The consignment of 30 sold to Zimmermann was the only sale of these caps which I negotiated.

X.Xd.by Asfour:- Goods delivered in March must have been ordered in November or December. Dizengoff's only took one order for these caps in my time - 30 of them. I cannot explain how Zimmermann got a second consignment of caps.

Re Xd. If order despatched by cable in January, the goods would arrive by the end of March.

To Court:- The wholesale price is 2/1 each less 90% (= 2.1/2d.)

Resumed.

Adjd. (Intd) W.G.K.C.

Igen Bergheim. Recalled at request of Prosecution.

I did deal with a second order of Japanese caps by Zimmermann - 50 - ordered about November.

X.Xd.by Asfour:- When I gave my reply this morning, I thought I was being asked about goods which had already been received. The police did not speak to me about this in the interval.

W.B.

Raphael Meltz. Sworn.

I am a partner in the firm of Sizengoff. I act as manager. The firm is an agent for Japanese and other foreign firms. We do business with Tobatta Company, of Japan: we are Palestine agents for that firm. There is no other agent for Tobatta in Palestine. We have been their sole agents since the end of 1930 or beginning of 1931. Dizengoff have central office in Jaffa: branches in Jerusalem and Haifa.

WK/4.

This cap is supplied by Tobatta. Dizengoff have supplied caps like this: before the murder only only order was placed: by Zimmerman. Since the murder we have supplied Zimmerman with 50 caps. On 18th November, 1932, this order was placed: shipment on 6th February, 1933. They usually take 6 or 7 weeks or two months to reach Palestine. These fifty

caps I have seen to-day in Zimmerman's possession. They were counted in my presence.

So far as I know
X.Xd. by Asfour:- So far as I know Tobatta had no agents in Palestine before us. I did not see any Tobatta goods in Palestine before we took the agency. Tobatta is a factory.

To Court:- I can say that up to the date of the crime, none of these Japanese 2" caps were received in Palestine, except the 30 supplied to Zimmerman. I made inquiries about this: I think in January 1933.

W.9.

Moshe Elenbogen.

Sworn.

Store-keeper P.W.D. We bought 2" caps from Zimmerman, 20. They were distributed: then called in and handed over to Police. 16 were used; 4 in store. They were used on the top of direction posts: P.W.D. bought in July, 1932.

X.Xd. N 11 .

To Court:- This cap is precisely similar to those bought by P.W.D.

ME/4.

W.10.

Elimelech Wiener.

Sworn.

Agent in Haifa of Bashkin & Wertheim, the agents in Tel-Aviv of Glittenberg Bros. of Germany.

W.E.20.

W.E.20 now shown to me: I have sold 1/2" caps like this

S.M.24.

to Sabbagh Bros. in Haifa. The cap on the bomb S.M.24 now shown to me is the same: it bears the same trade mark as W.E.20.

AWR.1(f)

A.W.R.1(f) is similar: it bears the same mark, GG. They are imported from the factory by me: the factory is in Vellert, Germany: of Glittenberg. No one else imports into Palestine from the same factory. I place two orders for Sabbagh Bros. These caps were not included: they were included in the second order. No other person has placed an order for this cap. The order was for 50 caps.

X.Xd. N 11 .

W.11. Majid Sabbagh. Sworn.

A.1. Ironmonger. I deal in water fittings. I know A.1.: points him out. He deals with me. He buys saws, screws, water fittings, pumps.

W.E.20. I stock 1/2" caps like this: I order them from Wiener.

AWR.1(f) I don't know to whom I sold them. This appears to me to be
S.M.24. a small one. The cap on this bomb is like W.E.20.

X.Xd.by Asfour:- Of the 30 I bought from Wiener, I have now about 16 in stock; the rest I sold.

No X.Xn. by 3, 4 or 5.

19.9.33. Adjd. (Intd) C.C.K.C.

20.9.1933. Resumed.

W.12. Ishaq Altenbaum. Sworn.

JA/21. Foreman of Works: Contractors Co-operative Society,
Haifa. We buy from Zimmermann. These two caps I saw a year ago, in March 1932, at Zimmermanns; and bought them. Comparing
MK/4 them with MK/4, I saw they are like brothers.

X.Xd.by Asfour :- I have not used the two caps I bought.

No X.Xn.by 3, 4, 5.

W.13. Victor Habib Ashi. Sworn.

A.1. Employed by I.P.C. I knew A.1. He had a shop in Jewish Quarter. I went there in September 1932 and previously. The first time I went there was to get a lux lamp mended. A.1 mended it; his brother Said was also there. The second time I went there they were again both there. I do not know

2. Khalil Muhammad el Isa. I do know the accused next to

2. A.1. He was working with A.1: at his shop. I saw him there the last time I went. There is only one bench in the shop: on the left as you go in. A.1 was working at it the first time I went. Noticed things on the table: lux lamps and tools. I saw nipples hanging on a string on the wall: like
MK/6 these now shown to me. They were not all of the same size;
AWR.1(e) from 1/2" to 2": rather longer than this. This was 2.1/2 or three months before A.1 was arrested. It was not the last

A.2

I went to the shop that I saw A.2: he was working with A.1: 2.1/2 to 3 months before they were arrested. The last time

ME/4.

I went to the shop I saw pipe-caps: from 1.1/2" to 2". They were like this: I saw two black ones on the table: and I think one white. The two black ones were like ME/4. The white

VE/1.

one was like this. I also saw a tin of polish: tools, keys. The tools included keys, large and small; a small boring machine and a saw.

X.Xd.by Asfour:- I am a motor mechanic. I do not need promises. I have a good memory. I made a statement to Magistrate nine months ago. It was 2.1/2 to three years ago I first went to A.1's shop. I had a quarrel with Ali Zeben before I got the lux lamp mended. A.1 made peace between us; he did not side with Ali Zeben. I told a friend that I had seen these fittings in caps in the shop: a few days later the Police approached me. I saw A.2 working in the shop after the second time I went there. I used to pass on my way to Nassim Cohen's. A.2 was not in the shop when I saw the nipples and caps there.

To Court:- I used to see A.2 in the shop almost every day; working.

Re Xb. The things I saw in accused's shop were the kind of thing that would naturally be in a plumber's. I had never seen a 2" cap before I saw one in accused's shop. P.O. Kleinman came to me: took me to Aziz Khayat's office: there I met a man wearing a tarbush: the man now shown to me. I afterwards picked out xx the caps I had seen in accused's shop, at the Police Station.

W.14.

Omar Weari.

Sworn.

Police Inspector, C.I.D., Jerusalem. I took statement from last witness: on 17.1.33. I arranged 11 caps of different sizes on the table: four of them 2" caps. He picked out a 2" black cap and said "This is like the caps I saw in the shop of Ahmed Ghalayini". It was like this.

ME/4.

X.Xd.by Asfour:- The 2" caps were of two different makes: two like MK/4: two German, nickel colour.

Re Xd. The other sizes were 1/2" to 1.1/2"

W.15.

Eugen Wilbuschewich. Sworn.

Mechanic engineer: 13 years experience.

A.W.R.1.B, LK/3, A.W.R.1(d) re-assembled from a 2" water-pipe cap: Japanese mark. MK/4 is a cap of the same make: same projections and threads: 10 threads. A.W.R.1(b) are pieces of a 2" nipple: I think of a nipple like MK/6. I made an examination and report at the request of P.O.Kleiman. The metals of A.W.R.1(b) and MK/6 are, in my opinion, the same. W.R.19 is a nipple made by me: it is slightly conical. MK/6 is factory made: also A.W.R.1(b): it has a smooth, machine made edge. A.W.R.1(f) and WK/20 are 1/2" caps: German: mark GG. The top of S.M.24 is bored in the same manner as A.W.R.1(f): from both inside and outside. Looking at exhibits -

A.W.R.1(c)
A.W.R.1(d)
S.J.F.11
A.W.R.1
A.W.R.1(b)
A.W.R.1.B.
L.K./3.
A.W.R.1(f)
A.W.R.2(a)
A.W.R.1(e)
A.W.R.2.

and the bomb SM/24, I say that a similar bomb could be built up from the pieces that I have before me.

X.Xd.by Asfour:- W.R.19: the threading was made by machinery. A.W.R.1(b) is 33 mm broad. MK/6 is 51 mm broad. 2" nipples are very easy to get. MK/4 is of tempered, cast iron: it could not be cast in Palestine: they have been on the market about 10 years. The Japanese mark has been on the market about a year. A.W.R.1(f).

No X.XN. for 3, 4, 5.

Re Xd. W.R.19. I did not cut the thread on the pipe. A.W.R.1(b) was part of a nipple. In SM/24 the 2" nipple has been similarly cut down. A.W.R.1.B. MK/4.

W.4. Mayer Kleiman. Recalled on notice under Sec.36, T.U.I.O., 1924.

I know Ishaq Glikman. On 16th September 1923 he went on board. I saw him - on board the S.S. Dacia, bound for Roumania with two valises: the ship sailed from Haifa.

Deposition of Ishaq Glikman signed by Magistrate produced. Deposition was made before A.1 and A.2 who did not cross-examine: read over by Mr. Gurry in presence of all five accused: Accused 3, 4 and 5 did not cross-examine.

Deposition admitted under Sec.34 of T.U.I.O.1924.

(Intd) O.C.K.C.

Deposition read and translated - marked MK/1 and MK/2.

Adjd. (Intd) O.C.K.C.

Resumed.

Mayer Kleiman. Continuing.

MK/3.

I went to Zimmerman's shop yesterday and there saw five caps and 45 others in the store 8 m. away. This is one of the 50 caps. I left the other 49 in a sack with Zimmerman. I examined 18 suspected vices in Haya and took impressions. None of them gave the same pattern as the accused's vice upon metak held in its jaws. I handed the impressions to Mr. Miller, Armourer.

X.Xd.by Asfour:- I searched Yusef el Armin's shop in Suq el Abyad. I did not search for jaws for sale apart from vices. I did not search for 2" pipes in Zimmermans: nor for English 2" caps.

To Court :- By suspected vices, I mean vices of which gave a pattern which was not obviously different from that on the exhibits.

Re Xd. W i l l .

W.16. George Joseph Francis Miller. Sworn.

Armourer, Palestine Police. I examined fragments of a bomb from a house at Bahalal. Later I received this bomb. I came to the conclusion that the bomb of which

BN/24.

FM/26.

I had seen the fragments was of the same construction as SM/24: made by the same people: SM/24 contained white powder: two pieces of rag and fragments of metal. This powder resembles the powder I took out of SM/24. Capt. Rice and Mr. Cosgrove were present when I opened the bomb. SM/24 was capable of being exploded by lighting the fuse. I made a report which I now use to refresh my memory.

A.W.R.1(c): 2 diamond shaped pieces.

S.M.24 contained similar shaped piece. They were fixed in the vice at the same angle and cut off with hammer and chisel.

A.W.R.1. The three pieces A.W.R.1 would together form a reducer similar to that on S.M.24.

A.W.R.1(c) have the same pitch as the 2" nipple on SM/24.

A.W.R.2(a): the pitch of the screw is the same as on the 1/2" cap on SM/24.

A.W.R.1.B: the fragments of a reducer are similar to the reducer on SM/24.

A.W.R.1(b): the fragments of a 2" nipple are similar to the 2" nipple on SM/24.

S.J.F.11 has been cut off a bar in a vice: the vice marks are visible. There are two similar pieces in SM/24.

A.W.R.2: flat piece is cut from bar of same size, as a piece in SM/24.

A.W.R.2: two half round pieces are from same sized bar as two pieces in SM/24.

A.W.R.2(a): the curved fragment is part of the neck of reducer.

A.W.R.2(a): two bits of round bars are similar to pieces in SM/24.

A.W.R.1(d) is part of either a 2" cap or of a reducer.

A.W.R.1(e) is a 1/2" nipple, similar to that in

SM/24.

make them.

20.9.33. Adjd. (Intd) C.C.K.C.

21 Sept. 1933.

Asfour :- Accused Mustafa has just instructed me to defer him. I ask for adjournment.

COURT. Adjournment refused. Advocate can obtain any necessary instructions at the next adjournment.

V.17. John Petrie. Police Corporal. Sworn.

On 10.4.33 I went to Saffuria: arrived about 4 a.m.:

1. searched 12 houses, including that of Mustafa Ali Ahmad. When I got there, his wife came out and went up passage at side of house. I ordered P.C. Ahmad Jaber to follow her. I went into house. I heard P.C. Ahmad Jaber shouting. I ran round to back of house: saw a woman standing 1 m. from wall. P.C. Jamil Danaf and the Mukhtar were with me. P.C. Ahmad Jaber made a statement to me: I climbed over the wall and found a bomb lying on the ground and a cigarette box 2 m. away. This is the bomb. This is the cigarette case. I picked them up and went to front of house. I asked A.5 if the cigarette box was his. He said "Yes".

SM/24.
SM/25.

Asfour :- No ~~xxxx~~ statement made by an accused person before he has been cautioned and charged is admissible in evidence. T.U.I. (Amendment) Ordinance 1929, S.13. Archbold, 1931, 28 Ed., P.406.

S.G.1:- Judges Rules 3. Judges Rules, Rule 1 applies.

COURT :- There is no rule which renders inadmissible a statement made by an accused person who is in custody, before he has been cautioned. (Cf. Judges Rules 6). Objection overruled.

(Sgd) C.C.K.Cerrie
ACTING CHIEF JUSTICE

Witness:- (Continuing)

A.5

I then asked A.5 whether the bomb was his. He made no reply. SM/24 and SM/25 I handed over to P.C. Dyke. I then

g SM/22

SM/23.

searched the other room of the house. I found a German rifle, No.9569. I inspected it: 4 rounds in magazine; one round in breech ready for firing. I asked A.5 if it belonged to him. Accused said "Ah". This is the rifle. P.C.Ahmad Jaber handed me 17 rounds SAA in piece of cloth. A list of things found was made in Arabic by P.C.Jamil Danaf and signed by A.5. These are the 22 rounds found.

5.

X.Xd.by Asfour for 5:- I placed sentries on each house searched. P.C.Dyke was in charge of A.5's house. P.C.Ahmad Jaber accompanied me. It was 8 a.m. when I began to search A.5's house. P.C.Dyke was in a position to see both doors of the house. P.C.Ahmad Jaber reached the house with me. Accused's wife came out before we went in. I saw nothing suspicious about her. I did not stop her. I ordered P.C. A.Jaber to follow her. I went into first room. P.C.Dyke remained outside. The Mukhtar stood outside. Another P.C. Jamil Danaf came inside with me. Mukhtar stood at the door and could see everything I was doing. I had touched a box before I heard P.C.Ahmad Jaber calling. I ran out: found Ahmad Jaber standing on a house, overlooking a yard belonging to a third house. The woman was standing at the bottom. The wall was about 2 m. high. I do not know the name of the owner of the house on which the P.C. was standing, or of the yard. I saw no one in the yard.

JP/1.

To Court:- This is a rough plan. A is where the bomb was found. B is where the cigarette box was found. C is the door by which I entered and left accused's house. D is another door. X is where P.C.Ahmad Jaber was standing. Q is where the woman was standing. C - A is about 3 m. The wall between C and A is about 2 m. high. X is 2 m. above C. E is where P.C.Dyke was standing on guard: he came into the house with me. I had seen the accused Mustafa in the first room of the house, before I found the bomb. I know the Mukhtar Said. I don't know about any people in Abdul Qader's

yard. I climbed over the wall and went and picked up the bomb: and went round the other side of A.S's house, back to door C. Ahmad Bais, I do not remember; nor any contraband cases from Suffuria. The report was made on my instructions. I did not record what the accused said.

Kattan :- I reserve right to cross-examine this witness if occasion should arise.

To Court:- I did not put any question to the woman about the bomb. I had ordered P.C.Dyke not to allow anyone to come out: or go in. When I went into the first room and saw accused Mustafa, I did not give Dyke any instructions with regard to him. Accused Mustafa remained in the room when I ran out. Dyke had gone into the room and I left him inside when I ran out.

W.18.

Ahmad Jaber.

P.C.783.

SrCrm.

On 10.4.53 I went to Suffuria: arrived about 3 a.m.

Cpl. Petrie was with me: we went to search. We searched many places: we went to search accused Mustafa's house. Jamil Danaf, Cpl. Petrie, late P.C.Dyke and Mukhtar Said Muhammad el Haj were there with me. The Cpl. went in with the others. I was ordered to stand on the roof of A.S's house to watch the place: look to the North. I stood on the roof. A woman went out of the room into which the Police had gone to search. She was holding up the skirt of her dress: when she reached the corner of the house near the foul house, I saw her throwing something. I called out the Cpl. and the Mukhtar and P.Cs. They came to the place where she threw these things - the bomb and cigarette box. The woman was accused Mustafa's wife. I got hold of her after she threw the things. I saw her throwing something black and something white. When the Cpl. and Mukhtar came and we went to the place xxxx where they were thrown, I came to know that these things were a bomb and a cigarette case. This is the bomb I saw. This is the cigarette box. It contains some El Amir cigarette paper

5.

5.

SM/24.

SM/25.

which is contraband. This paper and enough tobacco, also contraband, for three cigarettes, was in the box. Then Cpl.

5. Petrie showed them to A.5 and asked him "Whose are these?".

SM/25. A.5 answered "This box is mine". "This bomb is not mine".
SM/24.

Later he took A.5 into second room and searched it: it was locked. A.5 opened it. We found a rifle in the room:

SM/22. No.9569. This is it. It was loaded: 4 rounds in magazine, one in breech. We found a packet of 17 rounds on a jar. This is the piece of cloth in which they were wrapped: I cannot say if these are the rounds. I did not warn them.
5. Cpl. Petrie asked A.5 in my presence whose is the rifle. A.5 answered "This is mine".

X.Xd.by Asfour :- I accompanied Cpl. Petrie from Nazareth to the time we searched accused's house. I did not know why we were searching. On reaching the village, a P.C. was placed on guard over A.5's house and over other houses. Cpl. Petrie, Jamil Danaf and the Mukhtar went into accused's first room. P.C. Dyke remained outside: I was upon the roof. Before they went in, the woman came out by the same door. I was on the roof of the room into which they entered. I made a statement to Police the same day. I do not remember whether I said to the Police that we all went into the first room. I do not remember whether I said "All of us went into the first room: then I went out behind a woman". I do not remember having spoken to the woman. It was not the bottom of her skirt that she was holding, but near the girdle. The Cpl. was nearer to her than me. She went out and walked forward. I said "Woman, sit down where you are". I don't remember whether she sat down. I saw her crouching down near the fowl house: then I saw her getting up and throwing some thing. I called Cpl. Petrie - "Cpl. Petrie, the woman has thrown away something: Ya Jamil, Ya Mukhtar". The Cpl. was the first to get hold of the bomb and recognize that it was a bomb. I do not remember having said to the Cpl. that the woman had

thrown a bomb. This is my statement to P.O. Basta: it was read over to me: it is signed by me and P.O. Basta. It reads:-

" We went into the first room, then I went out behind a woman, who went out from the room. And at the same time I saw her taking out something from her chest and threw it to the East".

My ubha - chest - I mean her middle. There was no one there when we found the bomb and the box: later two women came: when the woman began to shout. If the Makhtar says that someone was present when the bomb was found, he is wrong. There is a window looking East: another between the two rooms. They were closed.

Adjd. (Dtd) O.G.K.G.

Resumed.

P.O. Ahmad Jaber. continuing.

X.Xd. by Kattan:- On 22nd December I was stationed at Nazareth. I do not remember making any search of any house on the night 22/23 December. I did search for people: I went to Arab el Massie and Malul. I do not know Waset Malul. Muhammad Awad I saw that night in his house at Bahalal forest near Arab Mazawi. He is of Janamis Tribe. By his house, I mean his tent. Bahalal forest is one hour from Malul lands. Malul lands do adjoin Bahalal lands, but not where Muhammad Awad was. Malul is South is Suffuria. Kana is N.E. of Suffuria: 1.1/2 or one hour 40 minutes away. Saffuria to Bahalal forest, where Ahmad Awad Muhammad was, is about one hour to 1 h. 20 min.

To Court:- The door out of which the woman came faces S.: when the Cpl. came out he turned to the E. and ran round the house. The woman had gone round by the N. side of the house. The fowl house adjoins the house on its North side. There is a wall of rough stones on the E. side of the passage: I did not get on to it. The woman was standing on ground belonging to A.5 when she threw the bomb away: she threw it on to another person's land. I am from Umm el Fahm. I know the woman was

A.5's wife because I heard him tell her to go away. A young woman with children in the house: I thought must be A.5's wife. No one arrested her. A.5 did not say that the bomb was not his.

S.G.1:- I ask for the statement to Police by this witness which defence have used.

AJ/1.

Statement put in: marked: read and translated.

Re Xn. In that statement I said "The woman has thrown something". That is what I did shout.

W.19.

Said Muhammad el Haj.

Sworn.

Makhtar of Suffuria. I was present throughout search
5. by Police of accused Mustafa's house on 10.4.33. I went with British Cpl. and two P.Cs., Ahmed Jaber and Jamil Danaf, to A.5's house. We found a British P.G. at the door. We knocked: A.5 opened. He and his wife were then in the house. We went in. The wife went out. We remained searching the house. Ahmed Jaber was standing outside. Later I went out towards Ahmed Jaber, who said to me "I want to go round the house". We heard the voice of Ahmed Jaber calling "Cpl., Said, come and see what there is on the ground". I went out with the Cpl. and we found a bomb and a box of cigarettes. This is the bomb. This is the box of cigarettes. The Cpl. picked them up and we went to search the second room of A.5. We found a rifle with 5 rounds in it; also 17 rounds of the same kind. Ahmed Jaber was standing on the roof: there was no one else there except the Cpl. and myself. The bomb was lying in an open yard behind a house. No one else was in the yard when the Cpl. and I arrived. I did not see any other woman there when the accused's wife came out of the house: or when I went out at Ahmed Jaber's call. When we came back with the bomb, I saw two women there. Ahmed Jaber was on the roof of a room: I don't know whether it was A.5's room or not. After we had found the bomb I saw Ahmed Jaber:

SW/24.
SW/25.

he was with us.

X.Xd.by Asfour:- I have been Mukhtar of Suffuria for 2.1/2-3 years. The two rooms of A.5 have one roof. There is no other rooms which joins them. They have one door to S.: another to W. If I said to Police that the Cpl. knocked at the door, that is correct. The Cpl., P.C.Danaf and I went in. They began to search. It was less than 5 minutes later that the woman went out. 2 or 3 minutes later I went out and stood at the door. I did not see Ahmad Jaber then, nor the woman. I did not see him again until I heard him shout. He shouted "Said, Corporal, come and see what the woman did throw". No one has spoken to me about this during the interval. I did say to the Police that I heard Ahmed Jaber shouting "Mukhtar, Corporal, come, this woman has thrown a bomb and a box of cigarettes". To the Magistrate I said "When Ahmed Jaber called us saying 'Come and see what the woman threw', I asked him 'What did she throw, brother?', and he replied 'A bomb'". The deposition was translated to me. I did not understand it very well. When the rifle and ammunition was found, I asked the accused Mustafa about it. He said "I know nothing of it". I know Amin Abder Rahman. I have fired with a rifle like this. Khallet Abu Dakin, I know. I saw people shooting gazelle there last summer. I said to the Police that I had seen this rifle last summer with Amin Abder Rahman: that I saw him carrying it in Kh. Abu Dakin and that I had fired a shot from it. I also said "When the bomb and cigarette box were found, Abder Qader's wife and sisters were in his yard". The bomb was found in another yard behind the house: Abdel Qader's yard. I do not remember who picked up the bomb.

21.9.33. Adjd. (Intd) C.C.K.C.

22.9.33. Resumed.

Said Muhammad el HajAbdel Majid. Continuing.

S.G.:- I wish to examine on the statement to the Police of this witness.

Asfour :- I object. The statement was not produced in cross-examination by me at all: nor did I call for it. The witness himself asked for the statement to refresh his memory.

Archbold, p.513. Dorman's Act 8.8.

S.G.:- I only desire to re-examine w.r. the rifle to which mention has been made in cross-examination.

W.19.

Said Muhammad.

Re Xd. I do not remember whether I told the Police what became of the rifle.

Asfour :- No document can be put to the witness in re-examination. The rule of using a document to contradict a witness only applies in cross-examination; nor in re-examination.

COURT :- Objection overruled. (Intd) O.G.K.C.

W.19.

Said Muhammad. continuing.

I said to the Police "I heard that this rifle was with a man called El Abed Mahmud".

Asfour :- I object to this being given in evidence: it is hearsay.

COURT :- overruled. The question was what did the witness actually say to the Police.

I said that El Abed Mahmud was in the Association: the Y.M.M.A., and lately Abed Mahmud has left the Association, because the Association has taken the rifle from him.

To court:- Abder Qader's wife and sister were not in the yard where the bomb was found: they were in another yard: the other side of Abdel Qader's house. I did not notice that A.S's wife was carrying anything when she left A.S's house. We searched 12 or 14 houses in the village. A.S's house was searched last. A British Police Constable was standing near the door.

W.17.

Cpl. John Petrie. Recalled.

I allowed the women to go out because there was no

room for us all in the house. I did not notice that she was carrying anything. I should have noticed if she had. I am sure that I went round the W. side of the house when I heard P.C. Ahmed Jaber calling; and that I found him at X and not at F.

JP.1.

W.20.

Suleiman Ahmed Abd el Ghani.

Sworn.

of Saffuria. I was there at the time of the Bahalal crime. I remember the Police coming to the village. I was in S. the previous day. I know all the accused: three live in Saffuria, two in Haifa. On the day before Police came, I may have seen A.3, A.4 and A.5 in Saffuria: in the streets. I did not see them in the ~~Mesaq-that-day~~ Mosque that day.

5. I saw A.5 near the shop of Assad el Haj Khalil: sitting: in the morning. On the evening of the day before the night of the Bahalal Crime I went to the Mosque to pray. I saw

5,2. A.5, A.2, at the door of the Mosque: they were also going to

4,3. the Mosque. A.4, A.3 were near the Mosque: all these four accused went into the Mosque together. When I left the Mosque, I saw A.5 and A.2 coming out of the Mosque. Outside the

3,4. Mosque A.3 and A.4 came to them. A.5 invited the other three to supper in his house, for the sake of the guest, A.2.

3. A.3 said "Thank you, I cannot come". A.5 and A.2 walked on:
5,2. I walked behind them, because my house is in the same road as

5. A.5's. A.5 and A.2 went to A.5's house. I had my dinner: then I went out: I was trading in contraband tobacco. I took

some and went to the Arabs, Jawarnia; that was about 9 p.m. I went to the Jawarnia and went back to my house. I started

home 1.1/2 or two hours after midnight. On the way back from the Arabs, at about 100 or 150 metres from our village

well, I heard mens' voices behind me. I sat down near the road, near an oak tree, in order to hide myself: thinking that they were police. The people passed by me on the road. They

5,4,3. were A.5, A.4, A.3. They were going towards Saffuria: coming from the South. They were talking: A.5 was carrying arms:

I cannot say whether it was a rifle or shot gun. I know A.2 from that evening: I had seen him before that in the village. I have never seen him any where else. When he came to Saffuria I don't know where he went. When I saw him with A.5, there was another person with them whom I know by face and not by name: he is not in Court. The night I saw A.2 in the Mosque was the second time I had seen him. The first time was when I saw him coming with Sh. Saleh and another person whom I do not know, coming to our village by car. It was after 'Asr and before sunset. The car arrived from the E. and went towards the E. The Saffuria branch of the Y.M.M.A. is in the middle of the village.

X.Xd.by Asfour:- I am a Moslem: there are five prayers: I do not often pray, so I do not know what they are. That night I prayed the sunset prayer: five meanings: two are Sunni and three are 'Iard: the Sunni come first. They are sure. I have been convicted once: the second year after the occupation: not for a false oath: I got two months imprisonment. I was young: I changed my evidence. I know Aziz Jurji of Nazareth. I was charged with theft and acquitted: but I was given seven days imprisonment for not having given information about the knife I had found. I am nicknamed Francis. I gave evidence w.r. the theft of a house: the accused was acquitted: it was not a question of believing or/disbelieving my evidence. I know the reason the Police searched the same day after the theft. I made my statement to the Police 5 or 6 months later. It is a duty among Moslems to give evidence. I am not obliged to give evidence. The Police sent for me. I may have told some of the villagers what I had seen. I said to the Police. I do not remember whether I said that my statement was voluntary. I did say to the Police that this was the only occasion on which I had sold tobacco to the Arabs at night. I did say that on the day on which Mustafa Ibrahim and Ahmad were arrested in this case, their relatives and the

villagers began to think that it was I who gave information about them. I did not speak to anyone and no one spoke to me until I was summoned this time. When I said I did not speak to anyone I meant to anyone in the Police. I may have spoken to villagers. I did say that my statement was correct and voluntary; that was in reply to a question. My house is E. of the Mosque. A.S.'s house is S.W. of the Mosque. I followed A.S. and A.S. from the Mosque and then turned to the E.: it is the shorter way; we separated off. Diab Muhammad Taher and Abdel Rahim Abed Naj's houses. There are many roads from A.S.'s house. My contraband tobacco was Arab: I bought it from Sahlin: I took 3-4 rattles, on my back. To Khallet el Kandoli and Kh. el Isqif of Bilal Village: 1.1/2 to 2 hours from S. to S.W. I sold to Muhammad el Awad, Khadra el Jindawi, Baljar el Hawi, Fares Suleiman el Wiji, and others. I reached the tribe about midnight.

Adjd. (Intd) C.C.K.C.

Resumed.

W.20. Suleiman Ahmad Abdel Ghani. Continuing.

It was still night when I reached the well on my return. It was 100 to 150 m. from the gardens of the well: 300 or 400 metres from the well. After they passed, I heard Ibrahim say to Ahmad "Come and rest in our garden". It had begun to get light. I was hiding in Khallet el Dabahi about one hour from Saffuria.

X.Xd.by Kattan for 3 and 4:- Mustafa saluted me; and I went with him into the Mosque. Ahmad and Ibrahim did not salute me. There is no friendship between us; no enmity; but we do not sit and talk together. With Mustafa I am on good terms. I have sold cigarette papers to Ibrahim; but I was afraid to let the three see that I had tobacco for fear that they should follow me, see where I hide it and inform the Police. I saw Police the night they came to Saffuria: Palestine Police. I saw them about noon: before noon. I saw

the accused at the W. door of the mosque. When the accused passed me at the oak tree they were 2 or 3 metres from me. It was possible to recognize a person at a distance of 5 or 6 metres. I recognized them from their appearance and from their voices. The Police did not ask me whether I recognized them by face. I did not recognize them by face; only by voice and appearance. By appearance I mean gait. I cannot say what they were wearing. Mustafa was wearing an abaya; not the others.

To Court:- I made my statement to the Police about 1.1/2 to two months ago. That was the first statement I made. There were 40 or 50 people in the mosque that night. I had no interest in the movements of Mustafa and Khalil.

5.2.

Re Xn. I did not give a statement till 5th July; but I may have spoken to villagers.

W.3.

Alfred William Riggs. Recalled.

The 23 pieces I produced were those now in envelopes

marked -	A.W.R.1(c)	3 pieces.	Diamond.
	S.J.F.11.	2 "	Sardine.
	A.W.R.1.	6 "	Reducer.
	A.W.R.1(b)	1 "	2" nipple.
	A.W.R.2(a)	2 "	
	A.W.R.1.B.	6 "	2" cap
	A.W.R.1(f)	1 "	1/2" cap.
	Now broken into two pieces.		
	A.W.R.1(e)	1 "	1/2" nipple.
	A.W.R.1(a)	1 "	

Total 23 pieces.

The six pieces of metal found under the flooring are now in an envelope marked A.W.R.2. The three pieces of rock are with them. These 6 pieces of metal and three pieces of rock were handed over to Capt. Rice on 6.1.33; the 23 pieces had been handed to him on 23.12.32.

22.9.1933.

Adjd. to 25.9.33, 0930.

(Intd) C.G.K.C.

25.9.33. Remmed.

W.21.

Aratol Rabinovitch.

Sworn.

I went to Mahalal on night of 22.12.32: arriving about

10.30 p.m. I saw Mr. Riggs (W.3) that night. I found pieces of bomb: about 25 altogether were found by me or in my presence by Mr. Riggs. On 6.1.33 I found a piece of bomb in the mattress of the boy, David Yacobi, now dead. This is the piece I found.

AR/1.

(NOTE.- This exhibit was seen submitted to the expert witnesses as part of A.W.R.1(b)).

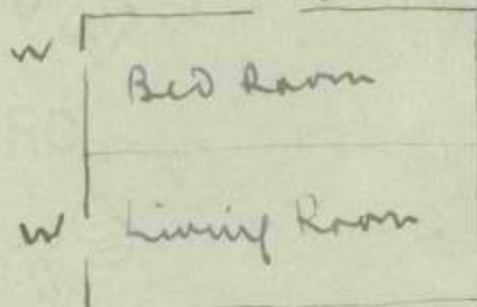
In 6.1.33, Mazar, Secretary of the Colony of Nahalal, handed me two pieces: these are they: one larger and one longer.

AR/2.

AR/3.

(NOTE.- AR/2 was previously exhibited as part of A.W.R.1(d).))

I examined the house where the bomb exploded. The mattress in which I found the piece AR/1 was then in a store. The house contains three rooms and a kitchen: one bedroom: one dining room: one verandah. The bedroom is lighted by two windows, one facing the cow shed - to the North: one facing South. So, one faces S. and one E. Looking out of the E. window, I saw that the glass was broken: there was broken glass below it in the room. Outside there is a tree: then a cow shed. The window with the glass broken was opposite the wall of the living room. W (broken glass)



X.Xd.by Asfour:- I was at my house, three minutes from Police Station: Sahk I was fully dressed. A P.C. brought a message between 9 and 10. Nahalal was in Nazareth District. Nahalal has one paid watchman: one unpaid. There is a fence all round the Colony: a gate into the open fields and another gate to the house: which is on the outskirts of the Colony. I know the Nazareth advocate Sharif. There is a P.C. in charge of the Nazareth look-up. I did not see anyone going there to see accused Mustafa. I have seen

Ahmed Haif at my office. I don't remember that he wrote anything about this case in my office. There is an open span at the back of the lock-up. My room was upstairs in April. Previously the present investigation room was my office. The investigation room has two windows opening on the yard. On the right there is a window opening to the air. A prisoner who is brought out of the lock-up passes into the charge of a guard. The guard should be present throughout the inquiry: unless the guard is otherwise ordered.

X.Xd.by Kattan:- In my office the window is usually open.

Re Xn. The fence round Nahalal is made of barbed wire, and it is possible to get through the fence.

W.22. Ali Ibrahim Suliman. Sworn.

of Kilut; charcoal burner. On the night of the Nahalal crime I left Kilut to go to the forest: about or after midnight. Muhammad el Mustafa was with me. We were walking along the road: three persons met us: we shouted at them: they answered "friends". We did not recognize them: they were going E., towards Kilut. The forest is S. of Kilut. The three men were as far from us as from me to the end of this Court. They were coming from the W. Jeidah is the nearest Jewish Colony. Nahalal is further from me the wood than Jeidah. I go to the forest by night and return to the village in the morning: we do not cut our wood at night.

X.Xd.by Asfour:- Bethlehem lands are 1 or 2 hours from Kilut village. I had my blue donkey with me. Daylight broke while we were still in the forest: we had a sleep, then got up. The morning star had not appeared when we left Kilut. We followed the usual road: we going E.: they going E. I challenge anyone I meet. I am afraid they will take my donkey. We had not our abayas. The forest is 3/4 hour from Nahalal. We got back to Kilut about two hours before noon. It was about five months later I made my statement to the Police. I had told some Kilut people. I know Ahmed Haif: and Elia Maxli: I know

he is a forest officer. I did not tell Elias Mahli that I had received from Ahmad Haif £.5 for giving this evidence. I made a statement to the Police in Haifa. I did not say to them that I had not informed anyone about this incident.

Exh.AMS/1.

(Statement by witness to Police, dated 18th June, 1933, put in, marked, and read.)

The night before I had remained in Hilut. This happened before Ramadan.

X.Xd.by Kattan:- It was in Khallet es Simsim that we met these three men. E. of Samuni.

Re Xn. H i l .

To Court:- It was dark night: not raining. I do not know any of the accused. The three men were walking in a row. I did not see if they had anything on their heads. They were 3/4 hour or one hour from the Haifa-Nazareth Road.

v. 22.

John Wheatley.

Sworn.

B.P.O.

JW/36.

On 28.12.32 I went to Nahalal. I prepared a map

JW/34.

of the colony. I prepared a map of the house of Yusef

JW/35.

Yacobi (W., N. and E. elevations). I prepared a map of the premises-yard and outbuildings. I now produce these maps.

5.

On 3rd June, 1933, I prepared another map. I went

JW/37.

with Mr. Miller and Mustafa Ali Ahmed. Mustafa took us to various places near Nahalal. This is the map. It shows Nahalal and the spots which Mustafa pointed out to us. The

JW/38 - (1)
to (82).

5.

same day I took some photos. These are they. They are all taken on spots ~~xxx~~ pointed out to me by Mustafa. Miss Diab of Nazareth made a statement to me: he showed me certain tracks and I marked them on JW/36 and JW/37. It was before 3rd June that these tracks were pointed out to me:

5.

I think it was on 29.12.32. After seeing accused Mustafa, I marked some further tracks on JW/37. The tracks pointed out to me by Miss Diab are marked in green. The route that accused Mustafa took us along is marked in red.

5.

X.Xd.by Asfour:- JW/37 does not show a place called Khallet

Simsim. Musa Diab's tracks and the route pointed out by accused Mustafa only agree as far as the Haifa-Hazareth road. The red track crosses the green track again, N. of the road.

To Court:- There are no footprints, that I saw on the red line. I saw footprints on the green line, but I could not distinguish which way they pointed. There is a road to Eilat and Saffuria which leaves the Haifa-Hazareth Road close to the turning to Bahalal. On JW/36 I show the houses adjoining Yacobi's house: they are 15 to 20 metres away on each side. The distance from Yacobi's house to the Haifa-Hazareth Road, following the tracks, is 800 metres. From point 1 to point 4 in direct line is 1500 to 1600 metres. Point 1 is in a slope. The red line from 1 to 4 is 2750 m. It crosses the main road within 5 m. of a bridge: from there to the point 3 is a straight line. From point 1 to 2 on JW/37, there is no path. Mr. Miller, the Mukhtar of Saffuri and I were with the accused Mustafa and P.O. Ahmad Waif. Mustafa was leading. The tracker was not with us. In the car Ahmad Waif was not sitting alone with accused Mustafa in the back seat. From point 4 to point 3 on JW/37.

X.Xd.by Kattar:- A.3 and A.4 were not with me on either occasion.

Re Xd. I took the photos under Mr. Miller's instructions.

Adjd. (Intd) C.C.K.C.
Resumed.

W.23. Behor Chitrest. Sworn.

1. A.D.S.P., Police Training School. On 11.1.33 I took a statement from 1st accused Ahmad Dib Ghelayini. I informed him he need not make any statement. He made a statement of eight pages. This is it. Statement read in Arabic.

Asfour :- I object. The charge made against accused before he made this statement was that of making a bomb.

COURT :- Overruled. Accused was charged under P.C.170 and G.L.A.O. (No.2), 1927.

2. On 12.1.33 I took a statement from accused 2, Khalil
 ES/14. Muhammad Issa. This is it. Read.

ASFOUR :- I have not had notice of any evidence to be
 given by this witness other than as to statements
 by the two first accused.

S.G.:- I am only asking questions to rebut a defence
 suggested by the cross-examination, of which we
 have previously had no notice.

COURT :- Objection upheld. Prosecution must give notice
 under T.U.I.C., 8.36, if they wish to put any other
 matter to this witness.

(Sgd) C.C.K. Gorrie

X.Xd. by Asfour:- When I took A.1's statement, I do not
 remember whether P.C. Kleiman was present or not. I wrote down
 everything that Ahmad Ghelayini said. I do not remember that
 he said that the man who brought the nipples to his shop
 looked like Kleiman. I know that the two accused were kept
 apart. When I took their statements one was in Acre and one
 in Haifa. Some questions were put to the accused to clear
 up their answers.

Re Xd. H 11.

W.24. Frederick Henry Miller. Sworn. A.D.S.P., Haifa.

1. I was present at an identification parade on 6th
 January, 1933. 1st Accused, Ahmad Ghelayini, was in that
 parade. He was placed among 11 others. Moshe Omran was
 then brought in and picked out A.1 without any hesitation.
 1. Ahmad then changed his place. Yeshua Katz was brought in
 and asked to pick out the man who bought tools from Zimmermans.
 Omran had been asked to pick out the man to whom he had sold
 tools in Zimmermans. In each case Omran and Katz said
 "This is the man". Accused Ahmad Ghelayini said "I know
 this man, he comes to my shop to repair primuses". When
 Katz identified him, accused said "I have not seen him before".

5. I went to Nahalal on 3rd June, 1933: with accused
 Mustafa Ali Ahmad, P.C. Wheatley, Sgt. Ahmad Haif and an
 escort. Sgt. Ahmad Haif had worked in Nazareth and I knew
 the people of the District, that is why I took him. He was

never in a position to speak to the accused not my hearing him. We ~~had~~ stopped the car off Nahalal Colony. Accused
5. Mustafa then said "I will take you to the place where we met".

Asfour :- I object. Accused had not been cautioned.

COURT:- This objection has already been raised and over-
ruled w.r. Cpl. Petrie's evidence. (Typescript
p.22) Overruled.

(Intd) C.G.K.C.

I went to Nahalal acting under orders from the D.S.P.
5. I met the prisoner accused 5 at Haifa lock-up. I asked him
if he wished to show me the places to which he went on the
night that the bombing outrage at Nahalal took place. He
5. said "Yes". Opposite Nahalal, I stopped the car. Accused
led me N. to the top of a small hill. On the way there we
5. met the Mukhtars of Samari and Bilut. At the top, accused 5
said "I came here from Saffuria two hours after sunset with
three persons": whom he named.

Katten:- I object to the names of these persons being given.

COURT:- As against the 5th accused the prosecution are
entitled to corroborate his statement that he was with
certain named persons by evidence that he was seen in the
company of those persons on that night. As against the
5th accused, the whole of the statement made by him is
admissible. Objection overruled.

(Intd) C.G.K.C.

Witness :- Continuing.

2 5th accused said he came from Saffuria with Khalil
4 el Issa, Ibrahim Ahmad el Haj Khalil and Muhammad Ahmad
qy.3. el Tobl. He stated that when he reached the hill, Khalil
2,1. el Issa whistled with his fingers; and Ahmad Ghaleyini came.
The hill is called Wsar el Samuni. They then went to a
large tree. There we could not see our previous position.
2,1 Fifth accused then said that Khalil Issa, Ahmad Ghalyini,
5 and he himself went towards Nahalal; that Ibrahim Ahmad Haj
4, qy.3 Khalil and Muhammad Ahmad el Tobl remained under the three.

There the second photo was taken. The tree is roughly one
 5 mile from the boundary of Nahalal. Accused 5 then took us
 across the main road to the outer fences of Nahalal on W.
 side. Accused 5 pointed out a spot and said "We crossed
 JW/37. about here". The point is marked 3 on map JW/37. Photo 3
 JW/37 was taken. The tree is marked 2 on same map. Maar es
 Samuni is marked 1 on same map. Accused 5 then led us S.
 towards the inner fencing of the Colony through grape vines.
 5 At a distance of 25 metres from inner fence. He said
 1,2. "We arrived here: Ahmad Ghalayini and Khalil Issa went on
 towards the houses and I remained here. That spot is
 JW/37. marked 4 on plan JW/37. A.5 then pointed out the direction
 taken by A.1 and A.2. I at that point sent for Mukhtar
 of the Colony, who came. He gave his name as Abraham Mazar.
 He stated that the land we were on belonged to Yakobi, who
 has been killed. A.5 had pointed towards some outbuildings
 on the edge of the Colony. Mazar stated that they belonged
 to Yakobi; and that Yakobi's house was a few metres from them.
 A.5 then said "I waited here for some minutes: I heard a
 tinkle of glass: then a voice: then an explosion: and then
 1,2 a scream: I turned and ran: Ahmad Ghalayini and Khalil el
 Issa came after me: we stopped before reaching the outer
 1. fence: Ahmad Ghalayini told me that he had thrown a bomb".
 A.5 then pointed out where he had stopped: marked 5 on plan
 JW/37. A.5 then stated that they then returned to point 2,
 the three: and there found Muhammad Ahmad el Tobi and
 4. Ibrahim Ahmad Haj Khalil: that they stayed a few minutes
 1,2. under the tree. Then Ahmad Ghalayini and Khalil el Issa
 5,3,4. went W. across the Maar. I, Ahmad el Tobi and Ibrahim
 Haj Khalil went back to Saffuria, by way of path called Tarq
 Khamlet es Skif. We then returned to Haifa. I can under-
 stand a fellow speaking Arabic. I did not speak to Mustafa
 through an interpreter.

X.Xd.by Asfour:- The identification parade for both witnesses

5.

was made on the same morning: in the yard of the lock-up. The report was made the same day. On the inspection with fifth accused, Mustafa, Ahmad Naif spoke to the Mukhtars. The point 1 is a very definite place. There is scrub round the top of a small hill: point 2 was the only tree for 300 m. We crossed the main road: and went straight to the point where the outer fence of Nahalal meets a track: point 3. In the car I sat in front: Ahmad Naif and Wheatley on small seats: accused Mustafa and escort behind. I am in charge of Naifa lock-up. Before I went to Nahalal I knew that accused 5 wished to point out the route taken by him on the night of the crime.

Re Xn. M 11.

25.9.1933. Adjd. (Intd.) C.C.K.C.

~~XX~~
26.9.33. Resumed.

v. 7.26.

Musa Diab er Rahim. Sworn.

Tracker employed by Police. I went to Nahalal about midnight on 22/23 December, 1932: to the dead man's house. I looked for footprints. I saw the prints of three persons coming out from the neighbourhood of the place where the murder had been committed. The tracks went N. into the plain. They were all shod: one wearing Arab shoes with nails: two wearing European shoes. The tracks led to the public road: there they stopped: I did not know any more about them. On the N. side of the road I followed the tracks to Samani and thence N. and then to the rocky place (Waar): in a valley: there are many trees there.

To Court:- The tracks on N. of main road I found to the N. of the spot where the tracks disappeared on the South side: to the left of the road. The tracks continued to run N. In Waar they were lost: I could not find them again.

At the waar the tracks were running towards Kilut and Saffuria. Khillet es Simsam, I know. It is part of the Waan

Where the marks were lost the ground is a road used by the public. P.O.Basta, Mr. Riggs and Suliman Eff; were with me. I went three times. The last time with Mr. Basta. The previous time with a photographer: this is he (points out P.O.Wheatley). I told him about the tracks. I put marks on the tracks and showed them to him. Near the house at Bahalal are some vineyards: the tracks passed through them: I saw the mark of someone either falling down or sitting: and a mark similar to that of the heel of the butt of a rifle. The B.P.C. may have taken casts of the footprints. Bahalal to Saffuria is more than two hours walk.

To Ct.:- I do not think that the B.P.C. went with me to the point where the tracks disappeared. I cannot be sure that the tracks that I followed N. of the main road were made by the same people as the tracks from Bahalal to the road. South of the road there were marks going to Bahalal and from Bahalal: made by the same shoes. N. of the main road the tracks I found were all going away from Bahalal.

X.Xd.by Asfour:- I did not make a report: I cannot read or write. I made a statement to P.O.Badawi. The foot prints were quite clear. I do not know A.1 or A.2. I saw them first in Court. I was asked to pick out their tracks. Saffuri Saffuria well is about 1/4 hour from the village. There were Arabs camping in Bahalal forest that night: N.E. of the forest: the forest is N. of the main road. I did not go to search the Arabs: Waar means any place that is rocky and has bushes. There is a road from Khallet es Sinsim to Elilut: a path, not a public road. El Arkub belongs to Bait Lahm lands. They are reserved lands: German. I could not find any more tracks at the spot where I lost them.

To Court:- I do not know the spot where I lost the tracks: but I understand that it is called Khallet-es-Sinsim.

X.Xr.by Kattan:- The tracks passed W. of Samuni, near the well. Khallet es Sinsim is N. and rather E. of the well.

Kandeli is about 1/2 hour from Mahalal forest.

To Court:- The tracks from the main road to Mahalal and back were quite clear. I was asked to compare certain shoes with these tracks. I was asked to compare the shoes of some of the present accused with these tracks: about a month or more afterwards. I could not come to any conclusion, either that the prints had been made by these shoes, or that they had not.

Re Xd. There were many tracks of people and cattle at the place where I lost the tracks.

To Court:- By Arab shoe I mean a shoe having no heel: with nails. The three sets of footprints were side by side: two close together (wearing European shoes); one a little way away (wearing Arab shoes).

W.27. Ahmed Haif Hassan. Sworn. Sgt. of Police.

On 3rd June 1933 I went with Mr. Miller, accused Mustafa, P.O. Wheatley and an escort to Mahalal. I have worked more than 5 years in Nazareth. I was in charge of Saffurh P.P. When we went to Mahalal on 3.6.33, accused Mustafa showed us where he and his companions had been. At Saffurh, there is a Y.M.M.A. I have known A.3, A.4 and A.5 a long while: more than two years. I have attended many meetings of the Y.M.M.A., Saffuria. A.5, A.4 and A.3 were members. I used to see them at the meetings. A.1 and A.2 I have also seen at meetings of the Saffuria Y.M.M.A. I made a report about them and others from Haifa before December 1932.

I took a statement from accused Ahmad Muhammad Abdel Qader: after his arrest. I produce that statement: this is it. It is headed 'Statement of Ahmad Muhammad Abdel Qader El Tobl of Saffuria'. I know this accused as El Tobl. The statement is in my handwriting; it was read over to and signed by A.3. -- Statement read.-- It was taken on 13th May, 1933. It is untrue that I have been interfering with the witnesses for the prosecution. It is untrue that I gave A.5 to Ali Ibrahim Suliman or to any other witness in

5,4,3.

AN/39.

3.

this case.

X.Xd.by Asfour:- At Nazareth I know an advocate called Sharif el Zobi. I remember seeing him once in Haifa at Kawkab Café. I did not sit with him. I was with others. I saluted him. I have never used him as a Police agent.

5. I may have gone with 5th accused, Mustafa, to Magistrate's house for a remand. Accused Mustafa's wife was also arrested and remanded. I did not say anything to Sharif el Zobi about taking a brief for A.5; or about this case. I did not prepare a statement with Sharif Eff. with a view to getting A.5 to make it. I did not discuss with him the question of addressing A.G. to take A.5 as King's evidence. I did not, nor did any Police Officer, to my knowledge, give Sharif Eff. a promissory note for 2.50, to be handed to A.5 on his leaving the prison. I do not know that A.G. has been asked to take A.5 as King's evidence. I remember that A.5 made a statement denying possession of bomb and rifle. I remember that A.5's wife was released on bail and afterwards re-arrested. A.5 was detained in Nazareth and Haifa and Acre. It was not only to meet his wife that A.5 was taken to Haifa. A.5's wife may have seen him in Court. I and Sharif Eff. and another P.O. did not see accused's wife, Ghazale and A/S with a view to taking a statement from her. In the presence of A.5 and a P.O., and Sharif Eff., I did not tell Ghazale that if she made a certain statement she would at once be released. After A.5 made his confession I knew what he had said. I do not remember what date he mentioned. I did not tell Sharif Eff. to see A.5 and tell him to alter the date. I have seen Sharif Eff. and his client A.5 at Police Station, Haifa. Sharif appeared at every application for remand. I did not suggest that A.5 should say that he had fasted all Shaban. A.5's wife was released; after he had made his statement; I cannot say how long. His wife; I cannot remember whether she made a statement or not; I may have been present. The

statement she made to Badawi Eff. in Haifa: I was not present. I did not go with A.5 alone to Bahalal before I went with Mr. Miller. That was the first and last time. We found the Mikhtars of Saffuria and Samuni on the road: I don't know why they were there. In the car I sat in the middle with a B.P.G. I did not speak to accused. During the inspection I took no part: I drew up the report. I belong to C.I.D., Haifa. Mr. Miller is District Staff. Muhammad Hussain Ikraim of Saffuria, I know. I may have seen him about this case. I never offered him money to make a statement. Khadra Jedawi: has stayed at my house: she came with a man who is a friend of mine. I think there was a hearing before the British Magistrate then. I saw her house: she is a Beduin. She was mentioned as a customer of the contrabander "Francis". I knew that. This was the first time Khadra had come to my house. She came with Muhammad el Jibri. There is a Hajewat Tribe. Muhammad Said Abed el No'ti, Chairman of the Y.M.M.A., has stayed with me. None of the other witnesses. Suliman el Francis (Abdel Ghani): I don't know who is paying for him in Haifa. I know witness Ali Ibrahim Suliman: I don't know who brought him to me. I did not offer him A.5 to give evidence. I have spoken to A.5 about a number of other offences committed against Jewish colonies. I may have spoken to him about this case after his statement to Examining Magistrate. It is untrue that I have fabricated the evidence in this case.

X.Xd.by Kattan:- The Saffuria Y.M.M.A. consists of 150 members: a Chairman, active and passive members. The active members are the Executive.

1. X.Xd.by Asfur by leave:- I knew A.1 previously: in Haifa. At the meeting in Saffuria at which I saw him, I do not know if Muhammad Said el No'ti was presiding: it would not surprise me if he had not seen A.1 there. Between April and June 1932 I have seen A.1 and A.2 together at Saffuria.

to court:- It was after he made his statement to Examining Magistrate that I spoke to A.5 about other offences committed

against Jewish Colonies: I did so because he mentioned in his statement that there was a secret association whose aim it was to kill Jews in Palestine. I have spoken with A.S. on two occasions other than the day when we went to Nahalal. I used to be invited to Y.M.M.A. meeting. Also it was my duty: as Government regards this Association with suspicion. There was a secret inner Society: tin bombs used to be conveyed from Haifa to Saffuria by people attached to the Association in Haifa. We confiscated 4 or 5 bombs and an accident took place with one of them which caused harm to some people.

S.G. :- Who were the persons who carried bombs from Haifa to Saffuria?

Asfour:- I object. (1) The evidence as to bombs is irrelevant. (2) The question of the bombs did not arise in cross-examination: hence re-examination is not allowable.

T.U.L.C., S.51(2).

Adjd.

(Intd) C.C.K.C.

Resumed.

Asfour :- I wish to have a representative of Attorney General summoned to prove that an offer on behalf of A.S. to make a confession and be taken as a King's witness was made to the Attorney General by A.S.'s advocate and a reply refusing was written to him.

S.G. :- I will ascertain in whether any such letter was written, and, if so, produce it. ~~XXXXXXXXXXXXXXX~~

As to re-examination

COURT. Holds that questions as to tin bombs and membership of Y.M.M.A. cannot be put.

Re-Examination - continued :- The accused Mustafa's wife was charged with being in possession of a bomb. When accused Mustafa denied "everything": the charge against him was possession of a bomb and a rifle. Ghazale has been released on bail.

W.28.

Harry Patrick Rice.

Sworn.

S.G. :- When was the information that two men had seen three men returning to Saffuria received by the Police?

Asfour :- I object. This is hearsay.

COURT :- Overruled. (Intd) C.G.K.C.

Kattan :- I object: this is rebutting evidence; and no new matter was introduced by the Defence.

COURT :- Overruled.

Witness :- continuing :- On 26.1.33 I read a report from Shitreet e.r. to this information; I made a note to that effect. A letter was addressed to A.G. by Sharif Eff. Zobi. I have a copy of it and of my letter to D.S.P., Haifa, following up on an interview with the A.G.

Copy letter from Muhammad Sharif el Zobi to A.G., dated read. Copy letter dated 28th May, 1933, A.I.G. to D.S.P., Haifa: read.

Asfour :- I ask for copies.

S.G. :- I object.

COURT :- Objection upheld: this is not the letter from A.G. to the accused's advocate for which defence asked.

Witness continuing.

X.Xd. by Asfour :- Shitreet's report was that agent Halul-Saffuria reports that two men going out to commit theft met three men and one of them recognised two of them. I believe a letter was written by A.G. to Sharif Eff. Zobi.

X.Xn. by Kattan. Nil.

Re Xn. Nil.

W.29.

Taha Ahmad Taha. Of Haifa. Sworn.

Q.1.

I knew A.2 and A.1. I was a member of the Y.M.M.A. with them; it is a secret association. We used to meet at Sh. Hussain Hamadi's at Haifa.

Asfour :- I object. There was not before the Magistrate anything about a secret association.

COURT. Overruled. It was the witness who mentioned the Secret Association without being asked.

(Intd) C.G.K.C.

Witness - continuing :-

2. We again met in the house of Sheikh Khalil Abu Ibrahim. He is in Court: he is the second accused. We also met in the house of a man called Sh. Mahmud Zarura. There was a meeting just before Ramadan in Sh. Mahmud's house: I went. I found A.1 and A.2 there. I had met them before.
2. Sh. Khalil, second accused, said to me "We are going tomorrow to Saffuria: would you like to come with us?". He said that he and Ahmad Ghalayini were going. Ahmad Ghalayini was present: sitting by. I answered that I could not go as I was employed. I saw accused Khalil again at the end of the next day: before the Mahalal case. Ahmad Ghalaying was with him. I asked why they had not gone. Khalil replied "Inshallah, we are going now".
- 1.

REMAINDER OF EVIDENCE IN CHIEF POSTPONED.

W.30. George Mackenzie. Sworn. B.P.C.

Asfour:- I object. I have not been given notice of the nature of the evidence to be given by this witness. I am entitled to know what is the contents of these entries.

COURT. Overruled. Defence called for these entries.
(Intd) C.C.K.C.

S.G.:- I withdrew the witness.

26.9.33. Adj'd. (Intd) C.C.K.C.

27.9.33. Resumed.

W.29. Taha Ahmad Taha. Continuing.

Asfour:- The notice served on me does not refer to a secret society.

S.G.:- I agree. But it would merely waste time if a further delay of 24 hours is given.

COURT :- objection up-held.

W.31. Jamil Huss Sherkawi. Sworn. Called at request of Defence.

X.Xd.by Asfour:- To Examining Magistrate I said that I had visited the shop where A.1 and A.2 work: and that if both were working they could not see one another. I also

2. said that there is a bench outside. I said there were a vice and a boring machine. They were on the bench inside the shop. I know Khalil Issa: he is an apprentice.

Re Xp. N 11 .

W.32. Mansur Naser. P.C.1249. Sworn.

Called at request of Defence.

X.Xd.by Kattan:- On 22.12.33 I was at Saffuria P.P. I went on patrol to surrounding Arabs. I know Khadra Jindawi: she was then camping in Wadi Kana: on N.W. side of Saffuria: at distance of about 1.1/2 to two hours walk. Khallat Kandli I do not know. Khallat Iskif I know. It is S. of Saffuria: 1 hour to 1.1/2 hours walk. There were other Arabs camping near Khadra: I don't know of what tribe. Arab el Heit I do not know. Ard Romani I know. Ard el Frush I know: it is called Frush Romani. Borges el Harli I know. I found him camping at Frush Romani 5-7 days after the crime: on 1st Ramadan. Faris Suliman I do not know. On night 22/23.12.33 a P.C. came and gave information about the crime. Bazarath is one hour's walk from Saffuria.

Re Xp. Before the murder I had been about three months at Saffuria. The Jindawi are nomadic. On the night of the murder I was in the Post. The previous day I went to the villages in the morning: returned about noon.

W.33. Muhammad Saïd Abdel Mo'ti. Of Saffuria. Sworn.

Chairman of Saffuria Y.M.M.A. I was one of the founders: all members are Moslems. The Police have been supervising the Society. Ahmad Dib Ghaleyini I do not know.

1. Khalil Muhammad Issa I know. Ahmad Muhammad Abdel Kader

2. 3. of Saffuria I know. Ibrahim Ahmad Haj Khalil of Saffuria

4. I know. Mustafa Ali Ahmad of Saffuria I know. I have

5. known A.2 since the date of our invitation to the Members

A.2 of Haifa Y.M.M.A.: in April, 1932. There was another invitation in June 1932. In April the Chairman and Members

came: A.2 was amongst them. He came both times. The others were Rashid Eff. Haj Ibrahim, Sh. Izz-ed-Din Hakmet el Hawli, and others, whom I may not know; perhaps. I gave a statement to the Police in connection with this case. I gave them the names of the persons invited.

Asfour :- I object to these names being given: they are irrelevant; and this is cross-examination of the prosecution witnesses.

COURT/ overruled. The Prosecution are entitled to ask whether witness did give certain names to the Police.

Witness :- continuing :- Abu Ali Hussin Hamadi, Mahmud Zarrara, and others I do not remember were there. Police Sgt. Ahmad Helif was in charge Saffuria P.P. He used to attend meetings of the Society. Police used to attend our meetings some times. That was all.

X.Xd.by Asfour:- At both meetings the subject of discussion was the constitution and bye-laws. The object of the Society was to benefit young Moslems in Saffuria; and to spread Moslem religious ideas. It was not part of a general Moslem Y.M. movement. We were limited to ourselves. We were not attached to any other body. The Society was registered. It has a caretaker: Abdel Muhann Hajid Muhammad Haj Khalil was caretaker before Ramadan. The Society has a place of meeting. These were the only two meetings at which people from Haifa attended: they were our guests and dined with us. I did not see A.1 there. There was an ~~xxxxxxx~~ executive committee of twelve persons. It did not include any of the accused. I know of every meeting held in connection with the Society. My family and that of Hawardi are the two biggest families in the village. Suliman Francis's father lived there: Suliman is of bad conduct. I have not seen him in Saffuria since I made my statement to the Police. I believe that he has been living at Haifa. He has no relatives who would assist him. Saffuria well, I know. There are oak trees there: not in the gardens. The gardens extend 1000 metres to W., 500-600 m. to E., 150 m. to N.: 40 m. to S. Khallet Kusba is to W. side:

more than 1000 m. from the well. It is one hour walk to Saffuria. Hilut to Saffuria: there are two roads. one passes Khallet El Kusba: 100-200 m. E. ~~xxxx~~ of the gardens. Re Xn. I do not know of any meetings of the Society out of Saffuria: I should not know of them. I gave my statement to the Police on the day that I appeared before the Ex.Mag. The two roads I mentioned from Hilut to S. are public. To Court:- I have seen A.2 in Saffuria on one other occasion before April, 1933: with people from Haifa. I did not see any one from Saffuria with him. I heard that he came to buy charcoal. I did not then know his name. Suliman Francis has lived in Haifa since he made his statement to Examining Magistrate.

W.34. Mahammad Ahmad Badawi. Sworn.

1. On 13th July, 1933, I took a statement from A/1. He
MB/28. was duly cautioned. This is it. Statement read.
2. On 13.7.33 I took a statement from A/2. He was duly
MB/29. cautioned: and statement read over. This is it. Read.
4. On 8.7.33 I took a statement from A/4. He was duly
MB/30. cautioned: statement was read over to M/4. This is it. Read.
5. On 29th May, 1933, I took a statement from A/5. I
MB/31. cautioned him: statement was read over to him and he signed it. This is it. Statement read.

X.Xd.by Asfour:- I was not specially called in to the Haifa Police Station to take A/5's statement. I am normally in the Rural Office. I had no special order to go to Urban Office. I was ordered to take part in this investigation. This was the only day I went to the Urban Office. On 21st May, 1933, I charged A/5. He said he would not give a statement then: he wanted 3 or 4 days in which to give one. A/5's wife was in arrest, on 21st May, 1933. Before 21.5.33, A/5 was charged only with being in possession of explosives.

I took down Suliman Francis's statement after 21st May.

I took no statements before that date. On 21.5.33 we went to Nazareth to charge A/5 with murder. A.D.S.P. Basta had then received further evidence against A/5. At that time I knew about A/1 and A/2. I only began to know about A/5 on that date. At Nazareth, Sharif Eff., Advocate, did not accompany us. A/5 asked for Sharif Eff. I went with P.C. Basta and, I think, Ahmed Haif, straight to Police Station, Nazareth. We explained the charge to A/5. He then said he wanted to see the advocate Sharif Zpbi; and did so. We were present at the interview. A/5 then said he did not wish to make a statement; but that he would make one in 3 or 4 days.

MB/1.

This is the statement: read and translated: (dated 21.5.33). We went straight back to Haifa: after taking the statement of the tracker. On 22.5.33, I saw A/5 and again on 30.5.33: these are the only three occasions on which I saw him. Ghazale, A/5's wife, I do not remember having seen. The only woman's statement I took was that of Khadra Jindawi. On 29th May, 1933, I did not know that A/5 was going to make a statement. I remembered that no statement had been taken from him: pointed this out to A.D.S.P. Basta: and we went to the Urban Division to take the statement. The heading was written in the Urban Office. Ahmed Haif was not there; Sharif Eff. was present. I did not send him a message to say that we were going to take a statement from A/5: we saw him at the barracks and invited him to be present. I do not know of any special arrangements made to obtain this confession. I wrote the heading in the presence of the accused and read it to him. A/5 did not ask first to see the statement made by his wife. From 21.5.33 I did not take a statement from her: I cannot say if one had been taken previously. A/5 did not destroy a statement before he made this statement to me. He did not say that he would only make a statement if he were permitted to tear up his wife's statement. Sharif Eff. was present throughout the statement. I have never before known an advocate present

5.

at a confession. Sharif Eff. looked astonished: so that I thought that like us, he did ~~xxxxxx~~ not know what A/S was going to say. We did not expect such a statement. A.D.S.P. Basta did not sign the statement. He did not sign when I was taking a statement. I do not think anyone could have thought A/S to give all the particulars mentioned in this statement. Next day before Examining Magistrate he gave further details that he had not given to me. The accused was taken before the Magistrate as a measure of precaution: lest he should deny it. The other accused were not present. Sharif Eff. was present at the statement by A/S to Examining Magistrate. I saw that so far as my knowledge goes it is untrue that Sharif incited A/S to ~~gi~~ make this statement for his own benefit. Ghazale was released after 29th May: on bail. I don't know why. We were not interested in the date at that time, that is why I did not question A/S about "the middle of Ramadan".

Re Re-Xn. by Kattan.

to Court:- I did not ask A/S why he wanted two or three days delay before making a statement.

Re Xn. Nil.

W.35. William Olive Curry. Magistrate, Haifa. Sworn.

5. On 30th May, Mustafa Ali El Ahmad was brought before me: he made a statement before me on oath: the statement was recorded at his request. Sharif el Zobi was present. A/S was cautioned: the ordinary statutory caution, according to T.U.I. Amendment Ordinance 1929: that he had nothing to fear from any threat or to hope from any promise. The statement made by A/S was read over, translated to him by the interpreter, who was specially sworn, and signed by A/S. This is it. Statement read. Shefteri, who translated, is not a translator to the Court: he is clerk to District Commissioner. I was met on the train and asked to take the statement that afternoon. I did not direct that any summons be issued to any advocate. I did

MR/32.

not ask for Shefteri: my own translator was not available. I did not arrange for Mr. Shefteri to attend. I always record the fact if an accused person's advocate is present.

Re Xn. I did not know Shefteri was interpreter to District Commissioner.

To Court:- I have now seen the accused often.

Adjd. (Intd) C.C.E.C.
Resumed.

Muhammad Said Abdel Mo'ti. Recalled by Court.

A/2, I do not remember that he has ever stayed a night with me. The first time I saw him, I think he did not stay with me. On the occasion of the meeting in April, 1932, I do not remember whether A/2 stayed with me. Some of the Haifa guests (names two) did stay with me. In June, 1932, I do not remember whether A/2 stayed with me. I was not sick on either occasion. I do not remember A/2 visiting me when I was sick and staying one day and one night in my house. Mahmud Zarura was originally from Saffuria.

Asfour :- R. v. Watson. I ask to cross-examine.

COURT :- After referring to the note on R. v. Watson (6 C. & P), on page 216, of the 28th Edition of Archbold's Criminal Pleading and Practice, we hold that it is not authority for the submission that the Defence is entitled as of right to cross-examine a witness for the prosecution who has been recalled by the Court before the close of the case for the prosecution. The Court sees no reason to invite the Defence to cross-examine in the present case.

(Sgd) C.C.K. CORPHE
ACTING CHIEF JUSTICE

W.29. Taha Ahmed Taha. Sworn. (Examination in chief continued).

- Before the Khalil murder the last meeting I attended was in the house of Mahmud Zarura: two or three days before the murder. Mahmud Zarura and I, Sh. Khalil Abu Ibrahim, Ahmad Ghalayini, and possibly Sh. Husein Hamadi, were present.
- 2.
 - 1.

I do not
know whether by
shooting or
otherwise

They were discussing killing Jews in a Colony lying between
Jamel and Jaida on Nazareth Road; the name of which I do not
know. I do not know whether it was by shooting or other-
wise. I had attended previous meetings: it was a question
of killing the Chairman of Hader Macarmel. Khalil said to me
"You see this high house: the owner is the biggest chairman
of the Jews and during the year of the riots all the Jews
took refuge there". That was while we were going to his house
before the meeting. I came to Haifa: I am very religious.

I like praying and fasting. One Friday, Sheikh Hussain Hamadi
and Khalil Abu Ibrahim saw me and said to me "What are you
doing here in the Mosque?". I said I had no work: where should
I go. I went to Sh. Hussain's house. Two days later I went
there again with Khalil Sh. Hussain and Mahmud Zarura. They
asked me to join their Society. The next Thursday night I
went and found about 30 people. Sh. Saleh el Haurani was
there. He made me take the oath and I became a Member.

Sh. Khalil was present: and Ahmad Ghaleyini; Mahmud Zarura:
El Abed; Sh. Hussain Hamadi; Sh. Saleh Haurani. The oath
that I took was "I will not be a traitor to the Association;
I will not speak about its secrets at all: whatever the Society
will do, I will behave towards it truthfully". I thought it
was a benevolent society. They did not ask me to do anything.

But they used to prepare bombs and asked me to take them to a
car going to Saffuria. The Society had a branch in Saffuria.
Sh. Khalil Abu Ibrahim and Sh. Hussain Hamadi asked me to take
the bombs. They told me to take this tin with something
planted in it: "a car will pass and see the ~~X~~ tin and stop
and you will give the tin to it". I was to get the bombs

from Sh. Khalil and Sh. Hussain. The bombs were to be put in
a petrol tin and covered with earth and a flower in the earth.
The bombs were small tins full of potash and dynamite and a fuse
and pieces of iron. I saw them in Sh. Hussain Hamadi's house.

They were made by Sh. Khalil and Sh. Hussain and Ahmad Ghaleyini.

I saw them being made, sometimes in the house of Sh. Hussain and sometimes in the house of Sh. Khalil. I did not take any bombs: someone else took them in my presence: the brother of El Abed. I made a statement to the Police in June last. When I saw the bombs being made, El Abed was sometimes present: and sometimes Sh. Mahmud Zarura.

Asfour :- I ask for 24 hours delay. I am entitled to this: notice was only served on me at 10.30 to-day.

COURT :- The defence have had ample notice. No period is fixed by the T.U.I.C. Application refused.

ixkix

Witness continuing.

X.Xd.by Asfour :- I am from Lubia. I came to Haifa in 1931 I think: after harvest. I have been back five times: the people there saw me. I was once in prison and overheard a conversation: and the police wanted me to give evidence: but they did not call me. This is the first time I have ever given evidence. I know Hassan Abu Dedis: of Lubia. He was not accused of burning a girl. I did not give evidence against him for any offence at Nazareth: ~~xxxx~~ ~~xxxxxxxxxxxxxxxxxxxx~~ or Tiberias: nor did I inform the police. He is my cousin and the head of my hamulah. Diab Taha is my uncle. He was my guest yesterday. There was not a quarrel between us which resulted in my being put in prison. I left Lubia because there was no harvest. I was 12-13 months without work in Haifa till I got employment with I.P.C. Everyone who joins the Society must grow a beard and is called Sheikh. I grew my beard for one month: then I could not bear it and shaved. I married off my sister to a man who paid me £.45. I first saw Sh. Hussain Hamadi in the Mosque about one month after I came to Haifa. At the dinner, Sh. Hussain, Sh. Khalil, Mahmud Zarura, El Abed, and a man from Beisan were present. My family were then in Haifa: at Abdel Aziz Hassan el Masri's house. Hassan Hamadi's house has two rooms: 1 or 2 sheds and a small room: a courtyard

then surrounded by a dry stone wall. That was the first time that I had anything to do with Sh. Mahmud Zarura. It was later that I lived in the house of El Jindi. We did not speak about societies that time. The meeting when there were 30 persons was two or three days later. I was a member of the Society for 6 or 7 months; I have not withdrawn from the Society; but since I have been working for the I.P.C. I have ceased to attend the meetings, unless I was asked to do so. I am a day watchman. They used to send word to me at my house: at Ibrahim Jindi's. Sh. Mahmud invited me to the last meeting. I attended: a little before Ramadan. I did not give any information until I made my statement in June. I don't know how they knew that I was concerned. I know Ahmad Naif. I got to know in Naifa who he was. I have not spoken to him. I was a member of the Society of which Khalil and others were members: not of the Y.M.M.A. I used to pay subscriptions: 6.1/2 pt. a month: no receipts given. When I said to the Magistrate that I was a subscriber to the Y.M.M.A., I meant the Society that I had joined. What I said to the Magistrate related to this Society. When I said "I left Society 7 or 8 months ago", that referred to this Society.

27.9.33. Adjd. (Intd) O.C.K.C.

28.9.33. Resumed.

W.29. Taha Ahmed Taha. Continuing.

X.Xn.by Asfour continued:- My first chat with A/2 was in the Mosque. After the Imam Sh. Saleh had finished his lecture: in middle mosque, the Mosque of Jersini, the big Mosque. The first time I met A/1 was at the meeting at which I took the oath. All that time I was living in the house of Abdel Aziz el Masri. I said to the Police the same thing. I did not say that I met A/1 and A/2 in the house of Mahmud Zarura. I did not say that I was living in the house of Jindi. I was living there when the last meeting took place. I did not say that at the end of the day Mahmud Zarura came to me: and I went

with him to his room and found A/1 and A/2. I said "after sunset". I said my meeting with A/1 and A/2 continued until their arrest. The last meeting was in the house of Mahmud Zarura. It was a day or two later that I heard of the Mahalal Murder. I did not make a statement till six months later, because I was not asked. Naturally I should not have made a statement if I had not been asked. I knew Saffuria; not well. I visited A/2 in Nebi Shara. I said to Police that I met him near Nebi Shara. I cannot describe A/2's house; nor say how many rooms there are. I can't point out the house to you. I remained a member of the Society but I ceased to mix with them. It was after one or two meetings that I came to the conclusion that the Society was not a benevolent one. It was after the 2nd or 3rd meeting. I do not remember how long after I came to Haifa I joined the Society. About 15 days after I came to Haifa I saw Sh. Hussain in the Mosque and I joined the Society one or two weeks later. There was a special meeting every week and also a general meeting. I attended every meeting. Within one month from my admission I had formed my opinion of the Society. The meeting in Mahmud Zarura's house was about 14 months later. I went with the person who carried the bomb to the car. I cannot give the date; I think it was before the Mahalal Crime. I do not know the name of the car-driver. It was a big car; a bus; to carry passengers and small boxes; it had seats. I heard that the bombs were seized by the Police. The man who filled them said they contained potash, fuse, pieces of iron and dynamite. The bombs which I saw being filled were not the bombs which were taken to the car; I did not see the later filled. I had seen bombs being made both before and after the car incident. Sh. Hussain said to me "I filled these last night and I want to send them to Saffuria". I think it was near Nazareth Garage at the E. gate that I was sitting in a café when Sh. Hussain passed. I was not then employed. We

2. went to his house: it was after the mid-day prayer: I had prayed in the Mosque. I refused to carry the bombs to the car. Then Sh. Hussain asked Khalil to get El Abed's brd her: and told him to take it to the car: he carried them. I went with him: I stood about 10 paces away. I was afraid to carry the bombs. Ahmad Abu Hureh: of Saffuria: I do not know. I did not see the bombs which were put into the tin and carried to the car. They had already been covered with earth when I saw the tin. I think it was about 2.1/2 or 3 months later that I was employed. I had not made a statement about the Saffuria bombs until yesterday: I had not been asked about them.

X.Xn.by Kattani:- H 11 .

Re Xn. H 11 .

2. To Court:- I actually saw Sh. Hussain and Sh. Khalil and Ahmad Ghelayini making bombs. Sh. Hussain used to trade in charcoal with Abu Ibrahim. El Abed sells paraffin. The bombs were tins filled with Potash. Then they put in a fuse. Then on top of the potash they put a rag or paper. Then they put pieces of iron, nails. Then a piece of cloth: then cement. Then the fuse is cut so as to stick out of the tin: to the length of a finger. The cover is made of cement and sand. They used to make from 10 to 20 or 30 bombs at a time. They used tomato sauce tins, the long size, generally. They used to hide them in a special place: I don't know where. Only Sh. Hussain and Aby Ibrahim knew this place. I did not see them making iron bombs. It was generally in Sh. Hussain's place or Ahmad's that they worked: always at night. They said they would be good for riots in the future. There is no enmity between me and these persons.

S.G.:- I can call the P.C. who found the bombs in car going to Saffuria: if Court desires.

COURT :- Unnecessary.

S.G.:- That closes case for Prosecution.

Asfour :- The prosecution must now say which Count of the Information they intend to proceed with. P.O.170. I ask Court to hold that there is no evidence in support of Count 1.

Court :- Over-ruled. -Intd- V.C.K.C.

Asfour :- I submit there is no case for the accused to answer.

Court holds that there is a case for A/1, A/2 and A/5 to answer.

Kattan :- I submit that there is no case for A/3 and A/4 to answer.

(1) The confession of A/5 is not evidence against them. T.U.I.C., S.35 (last para). Archbold 411, 28th Edition. p.474. Corroboration as regards one is not corroboration as regards the other. Russell.

(2) Suliman Abdel Ghani's evidence is that of a single witness uncorroborated.

S.G.1:- Against A/3 and A/4, I submit that there is a prima facie case.

1. They were members of a secret society in Saffuria which received bombs from a secret society in Haifa of which A/1 and A/2 were members.

2. They were seen in the company of A/2 and A/5 of whom A/5 has admitted commission of the crime.

3. They were seen returning from Nahalal on the night of the crime. (Abdel Ghani, the smuggler, and the charcoal burner, and tracker).

AM/39. 4. Statement made by A/3: denying that he was out that night. 4 E. & E.D., 460, Sec.4988, note (n).

NB/30. 5. Statement of A/4. Contrary to Suliman Abdel Ghani who is corroborated. Denial of knowledge of A/2 is untrue: disproved by witnesses. R. v. Desmond, 1865, 11 Cox C.C., 148; 14 E. & E.D., p.124. R. v. Charles, 17 Cox C.C. 499; 14 E. & E.D., 124, 5.946. Bomb found in house of A/5 is evidence against A/3 and A/4 where common purpose is proved.

THE COURT HOLDS that the evidence given against the accused Muhammad Abdel Qader el Tobl and Ibrahim Ahmad el Haj Khalil is not sufficient to support a conviction: and these two accused are therefore acquitted.

28th September, 1933.

(Sgd)

C. C. K. GURRIE
ACTING CHIEF JUSTICE

Accused Ahmad Dib Ghalayini.

Elects to give evidence on oath.
S w o r n .

Q. 2. From Acre: I have been in Haifa since before the War. I repair gramophones, primuses, lux lamps and water pumps. I work in a shop: I opened it about 3 or 4 years ago. Khalil came to work with me about 7 months before my arrest: on 8 or 9 Ramadan. I met him first at a barbers: he came to me as an apprentice. I can read print: I cannot write. I was an active member of the Y.M.M.A. till I went to Beirut: about two years ago. Since then I have not paid my subscription. The aims of the society were to help the Moslem poor. I have never been in Saffuria in my life. Two months before my arrest I signed a paper resigning my membership of the Y.M.M.A. Ahmad Khalil's evidence that he saw me at a meeting in Saffuria is not true. I did not leave Haifa before Ramadan. On the night of the crime, I think I was mending a lux lamp for Mr. Basta: and I collected the money next morning. I buy fittings for water pumps from Jamil Sabbagh and from Majid Sabbagh and from Abu Juban. The two Jews who work at Zimmermans and the evidence of identification, I heard. When Musa Churan identified me I said "I knew him since the time when I used to buy from him, when my shop was near theirs". That was 1 to 1 1/2 years before I moved to my present shop. The other Jewish witness: I used to see him working in the shop. The last time I bought from Zimmerman was before I moved to my present shop: I bought two pliers and a brush. I did not buy 2" caps from him. I had not 2" black caps in my shop. I did not have caps like this in my shop. I do not know why these

two Jewish witnesses should say that I had bought 2" caps from them. Victor Ashi quarrelled with Ali Ziben; I intervened.

Victor Ashi got hold of me and struggled with me. I have not seen him for more than a year before my arrest. He did not bring me a lux lamp to mend. A vice is necessary for iron work. I bought my vice as it is. There are similar jaws to be found in the town: they are made in factories. I have never seen Mustafa or the two men now acquitted before my arrest.

When they were put in the cell with me, I thought they were secret police and began to shout. Badawi Eff., and Mr. Basta ~~xxxxxx~~ were in the prison. I have never carried this rifle.

I first saw it in the hands of the Police. Police searched my shop and found these nipples. Every ironmongers have them. They found no 1/2" nipples: only 3/4" and 1" and others.

My shop is in the Suq: a small shop: 4 x 2.1/2 m. I did not make bombs there or elsewhere. I had no relations with Khalil except as master and apprentice. I did not join any secret association. I was a member of the Y.M.M.A.: I have never belonged to any other Society. I never met Taha until I saw him before the Examining Magistrate. I have no doubt that he was paid to give evidence against me. I am not very religious.

At Beyrut I was employed: by the Sadaphone and Shell Cos. I am married: to the daughter of Mahmud Zarara's wife. Khalil effected the introduction. Immediately after my arrest I was taken before Mr. Basta and made a statement. First A/2 was taken: then they took me: they made a search in my mother's house: then they took me to Police Station. P.O. Kleiman was present when I made my statement. When I told them about the man who came and brought these nipples and said that he was like Mr. Kleiman, they laughed. I have used iron like this: I used it for strengthening a man's wooden leg. I bought it for the purpose: I may have bought similar iron before. Abu Wadia Shahruri is the owner of the wooden leg. I was present when this was found.

A vice is necessary for iron work

Nipples, every ironmongers have them.

I have used iron like this.

5.

SM/22.

HK/6.

2.

2.

HK/7

AG/1. X.Xd. This is my photo. I wore a moustache at that time. I put on a kuffia because it had been raining. Apart from Sh. Mahmud Zarura and Sh. Khalil I do not know any of the other persons mentioned by Taha as members of the secret society. I did not know that there was a branch of the Y.M.K.A. at Saffuria. I was not invited there; I did not hear that they went. I ceased to be a member before I went to Beirut. 17th April, 1981, is the date of receipt of visa fee from French Consulate. I know nothing about rifles, or revolvers. Secret Police Said was mended his revolver in my shop. This piece of iron is used for windows. I mended the wooded leg about six months before my arrest. The 2" nipples can be bought anywhere in Haifa. I have never inquired for 2" caps like this. The man who brought the 2" nipples also brought the white ones. I may once have bought one, which I put in the Mosque of Jeraini. I showed it to the P.O.: I cannot say if it was exactly like this one. I was mending a pump with my apprentice; I came back into my shop and found a man who said "I have done a job in your shop: these nipples I used to use but now I don't need them: they are the wages". I do not know the man's name: I gave a description of him: he is like Mr. Kleiman, in face and figure: I am not sure about his figure. I do not know where he lives. I do not remember whether he had been to my shop before. Since then I do not remember whether he has been. I do not know what he did in the shop: I did not discuss it with him. He was speaking Arabic like an Englishman. He wore trousers: was bareheaded. I sometimes leave my shop for my neighbours top lock after. Katz, I have known since my shop was near theirs. I do not know their names. The quarrel between Ali Ziben and Ashi was about a year before I was arrested. I did not see Ashi again.

MK/7. I have not used iron like this for any other purpose except mending a wooden leg. I mended some scales: with iron sheeting. I have mended scales for a Nablus man: with flat

2" nipples
can be bought
anywhere in Haifa.

MK/7. iron: not like this. The cap I used in the Mosque was not
VH/1. like this. For like this. I use hammers, saws and
MK/4. boring tools, and chisels.

MK/7. Re Xc.:- This is not called saj (sheeting). It is called
'iron with a back'.

To Court:- I think it was a man from Nabheni who asked me
for my subscription. Mahmud Zarura has it tattooed on his
hand that he comes from Nazareth.

28.9.33.

Adjd.

(Indd)

C.G.K.C.

29.9.33. Resumed.

2. Accused Khalil Muhammad Issa. Elects to give evidence on oath.
A w o r n .

I live at Haifa: near the bridge. I have never lived
at or near Nebi Shana: it is a Jewish Quarter, I think. I
live 2 or 3 km. away from it. Before my arrest I was in
P.O.: then a charcoal seller: then I worked as an apprentice
with A/1. I had been 7 or 8 months with him when I was
arrested. He paid me 5 piastres a day. I have a wife and
three children: no other source of income. I have seen Taha,
the witness, in Haifa, but I do not know him. I have never
met him anywhere. I did not see him in the Mosque. I was
a member of the Y.M.W.A. Its object is to educate and
improve the members. It is recognized by the Government.
I have been to Saffuria twice in my life. The first time I
went on an invitation by Y.M.W.A. Saffuria, for election of
Chairman and members of the Saffuria branch. The second time
I went to congratulate Muhammad Said on his recovery. I saw
him on my first visit to Saffuria: I learned then that he was
the chairman of the Saffuria branch. That time I think I
spent the night in Muhammad Said Abdel Moti's madafa. When I
went to congratulate him, I don't remember if I spent the
night there: I do so on one or other occasion. I did not
know A/5 before my arrest. Mahmud Zarura I know: a paraffin
seller. Sh. Hussain Hamadi was my partner in the charcoal

5.

business. I have not been a member of any society except the Y.M.M.A. Sh. Hussin used to be a member; I do not know about Mahmud Zarura. There were 5 or 6 people from Haifa at the meeting at Saffuria. Zarura has been with me to Saffuria by car. He wanted to visit a relative, I think. Saleh el Ashawi, I know; he used to be Imam of the Mosque; I think; he used to pray there; and lecture. I have never heard him lecture outside the mosque. I have never made a bomb. There has never been a meeting to make bombs in my house. I never walked with Taha; I was never under the same roof with him. His evidence is untrue. He made his statement because money can do everything. Suliman Francis's statement is untrue.

3. I do not know Mustafa's house in Saffuria. He made his statement for the same reason as Taha. I buy food from Muhammad el Silawi on account. When Police first came to

1. Ahmad's shop, they took me to my house to make a search. They found nothing. I have been in arrest ever since. I made a

1. statement to Police at Acre. I did not see Ahmad in the meanwhile. The chairman of Haifa Y.M.M.A. was Rashid Haj Ibrahim.

MK/4. I saw no caps in Ahmad's shop. I saw no cap like this. The first time I ever saw Victor Ashi was in Court. I should have seen caps if they were in Ahmad's shop. I have never made a

1. bomb. There is no friendship between my wife and Ahmad's.

X.Xd. I worked at Shefr Amr as a fellah. I did not meet any Saffuria people there. I worked 10 or 12 years in P.O. I left because my superiors officers quarrelled with me and were all against me. I did not work at Mejdol el Krum; or at Iksim. Abu Hamadi I ~~worked~~ worked with in charcoal. Sh. Hussin Hamadi came from Iksim. I did not work for Sabkarit. I worked for

1. Ahmad Ghaleyini without wages for 2 or 3 months. While I was not getting any wages from him I had £.10 or £.15 from the P.O. There were other guests in Abdel Moti's madafa; for that reason he may not have noticed me. I saw Ahmad Half at the meeting at Saffuria. I was present at Ahmad's marriage at Zarura's

house. El Abed Kasem I saw at Saffuria when I went there with the Society. I have never seen this cap before. Nor this cap. I did not help Ahmad to fit a cap onto a pipe in the Mosque. I have seen these 12 nipples in the shop: about two or 2.1/2 months before I was arrested. I don't know how they got there. I have worn a beard since I left the P.O. I like everyone who does not harm me.

Re An. My wife is a Druze.

To Court:- It was a year before my arrest that I visited / Abdel Moti. It was 1.1/2 years before my arrest that I first went there. If Abdel Moti says the meeting was in April, 1932, that must be correct. There was about 6 months interval between my two visits to Saffuria. If Abdel Moti says there was an interval of two months between the two visits, he is more accurate than I. I had not begun to work for Ahmed. I went to Saffuria and returned by car: it may have cost 12 pt. the return journey. I was then working in charcoal and could earn more than 10 piastres a day. I never saw A/1 was Saffuria. A/5 I never met: I do not remember him in the Society: nor in the Mosque.

A/5. Accused Mustafa Ali Ahmad. elects to give evidence on oath.
S W O R N .

I am from Saffuria. I heard about the Mahalel Crime for the first time in Court. When the Police came and searched, I was busy making doors for a new house. I had prayed the morning prayer: I went out to relieve myself before the prayer and saw a B.P.O. outside. He told me to close the door and stay inside. I stayed in till sunrise. I heard a knock and opened the door. I saw two B.P.Os and two Palestine P.Os outside, and the Mukhtar Said Muhammad el Haj. They all came in, except one. My wife stayed in for a little: then she went out. They were searching. P.O. Ahmad Jaber, I may know. He was with the party: he came into the house: I cannot say if he stayed inside or not: he may have gone out: I think so.

They searched and found nothing: we stood at the door: Ahmad Jaber called: the Police went to him. My wife was then sitting near the door of the house. My house is close to my uncle Abdel Qader's. When Jaber called the party went into the lane of my house. They came back bringing a bomb.

I do not remember that they brought anything else. They asked me about the bomb: I said "It is not mine and I don't know it". They made a report: I signed it. They then searched the other room and found a rifle: this may be it. They may also have found some ammunition. I said I knew nothing about the rifle or ammunition. I was not living in that room. I was busy all the month building a new house: and my wife. No one stayed in my house. I have a son. I was taken by the Police with my wife to Nazareth. I saw Mr. Basta, Ahmad Naif and Badawi Eff. that day. They took a statement from me. They took me to the Magistrate: that was the same day that they had searched my house. This is the statement I made to the police: signed by me.

Statement put in: read and translated: dated 10.4.33, 1500 hrs. (I heard the voice of Ahmad Jaber "the woman has thrown something: come and see what she has thrown").

Good, S - continuing:- Badawi Eff., A.D.S.P. Basta and Ahmad Naif took me to the Magistrate. The Magistrate remanded me and my wife for 15 days. I was taken back to prison. Ahmad Naif came into my cell. He asked me where I got these: (rifle and bomb): I said I knew nothing of them. No one else came to see me. After the 15 days were over they took me to the Magistrate: I met my wife there. Ahmad Naif, Mr. Basta and Badawi were all there. Halim Eff. Basta applied for my remand. I and my wife were remanded for another 15 days. They took me to the lock-up: I don't know where they took my wife: I was kept in a dark room: no one came to me. I did not ask to appoint an advocate. They took me up again before the Magistrate for a remand. I think Ahmad Naif, Badawi Eff. and

Suliman Eff. were present. My wife was there. I was further remanded and taken back to the lock-up. After that, Sharif Eff., the Nazareth advocate, came to me. I had not sent for him. He said "Mustafa, I am your advocate". Then he went away. Two or three days later he came back. The Police took me to the office. I stood with him outside: then he asked for a private interview. He said "As regards the rifle you will be convicted: as regards the bomb there is no evidence that it was found with you". I signed a piece of paper, which he said was a power of attorney. I was then taken back to the lock-up. Three or four days later he came back and said "If you will confess being in possession of the rifle you may get off with 1.1/2 months imprisonment, instead of three months". Then he came to see me every 3 or 4 days. He said "If you will agree to my opinion I will tell you". Then he said that if I would give evidence against certain people of Haifa in Mahalal case, I could leave the rest to him. I said "No; how can I do that if I don't know the people and be faithless to my religion". I knew nothing about the Mahalal case. I asked him about it. He answered "There are some people in Haifa who are accused of murdering people in Mahalal: if you will make a statement against them, we can save you". I refused. The statement that has been read in court was written by Sharif Eff. who made me sign it. I cannot read. I can write only my signature. Besides the statement I made to Mr. Basta and Ahmad Haif, I did not make another. I was taken again before the Magistrate and my wife. On one occasion Ahmad Haif applied for my remand for 7 days: he agreed to allow my wife bail. Two days later we were again taken before the Magistrate: a remand for a further 15 days for both of us was granted: bail being cancelled. I was taken to Nazareth lock-up. Sharif Eff. came to see me from time to time. He said Mr. Basta was angry. I told him that the Magistrate had told me to apply to District Court. I had at

MB/1.

MAA/1.

that time made only one statement to the Police; which has been read to-day. Sharif Eff. said that if I made a statement against these people, my wife and I would be released. He also said that he had seen my wife and said that a plain clothes policeman had had sexual intercourse with her. Then he took a piece of paper from his pocket and saying the fetwa "A blow to religion is much easier than a blow to honour". Then I agreed. Next morning Badawi Eff., Mr. Basta and Ahmad Haif came.

29.9.33.

Adjd.

(Sgd) C.C.K. Corrie

2nd October, 1933.

COURT :- On further consideration, defence are entitled to have copies of the two copy letters read in Court by Mr. Rice.

A.3

Accused Mustafa continues :- Sharif Eff. asked me to make a statement that on 15th Ramadan, Khalil Issa came to me at the Mosque and asked me to go with him to steal cows. When Mr. Basta came next day, I refused to make this statement.

A.2.

I said I wanted to see my wife. Sharif told me to give them a delay of two or three days. Then Halim Eff., Ahmad Haif, Badawi Eff. and Sharif Eff. came to me. Sharif said "Sign this paper: it is a delay of two or three days to them, till you see your wife". This is my signature: it may be the paper I signed. P.O.s went away. Sharif remained. Sharif said "Had you made a statement to-day your wife would have been released. If you make a statement, you will see your wife and she will be released; and after a week you will be released". Afterwards he said "I have got an order for you from the A.G.. Let us go to Haifa: there you will make your statement and be released". He showed me the order in English. There was a round red seal on the envelope. He did not explain the order to me. Two or three days later, a P.O. took me to Haifa. I was put in the offices upstairs: Sharif Eff. came and said "Come and make your statement so that you can go away". We went into another room where were

MB/1.

Halim Eff., Badawi Eff. and Ahmad Haif. We sat down. I said to Sharif Eff. in their presence "What have I got to say?". Sharif Eff. said "Now we will write down the statement and will teach it to you". They wrote it down and began to teach me. Sharif Eff. and Ahmad did this. The statement was that on 15th Ramadan Khalil Issa came to me and we had supper together. Badawi Eff. and Mr. Easts went away while the other two were teaching me. When they had taught me they took me to the Police Post on the Nazareth Road. I had already signed the statement that they had taught me. I spent the night at the P.P. Next day I was brought back to the office of the D.S.P. They began again to teach me the statement lest I should forget it. Sharif Eff. and Ahmad Haif did this. They said they would take me before a British Magistrate with an Interpreter. If I was asked if someone taught me what to say, I was to answer "no one". I was to say that I made the statement voluntarily. I was taken to the Magistrate: I made my statement: and was taken to the P.P. on Nazareth Road. Next morning I was brought into Haifa again: and was put in a cell alone. Next morning they me out of the cell and said "Now we are going to release your wife". I saw her put into a car and taken away. I remained in prison, and have been there ever since. Every day they used to see me. Ahmad Haif used to come and warn me every other day, not to forget my statement. During this time, in Nazareth, a P.O. took me in Halim Eff's car to D.S.P.'s office: at Haifa. Sharif Eff. and Ahmad Haif were there. Sharif Eff. said "We were mistaken about the date: we told you to say in the middle of Ramadan: it was before Ramadan". I was to say that I was fasting before Ramadan, and that I did not remember the date. I said "Good". I saw my wife before her release. She was brought and we both went to the office of the Police, Haifa. Ahmad Haif, Badawi Eff. and Halim Eff. were present. They said to her "Make a statement supporting your husband's that Khalil came to have

MAA/2

supper with you: and that you threw a bomb". She said "No, I did not throw a bomb". The statements that I made to Bedawi Eff. and before Examining Magistrate are not correct. Sharif, Ahmad Haif taught me to make them. I made the statements before they said it was better to suffer in religion than in family honour. Sharif said he was my advocate and was responsible. When they searched my house they made me sign a report. This is my signature: this is the report. (Report read and translated). It was Sharif's statement that they would release my wife and release me and make me a King's witness that led me to make the statements that I did make. I never saw A/1 or A/2 before the day when I saw them in Court. I said to Sharif "How can I make a statement against men I have never seen". Before I was taken with Mr. Miller to show them the spots, I went out there with Ahmad Haif and a car driver. He told me where to go. Two or three days later I went with Mr. Miller. I knew nothing about a secret society. I was a member of Y.M.M.A. Saffuria for two or three months only: when it was founded. I left because I could not pay the subscription and I am not free: I am busy.

The Mosque at Saffuria has two doors: one W. and one E. From the house of Suliman Francis one goes through the E. door. I go through the W. door. I heard Suliman say he followed me. I have never seen him praying in the Mosque.

X.Xd. I made my confession at Haifa. From that time, I never went to Nazareth. When I went with Ahmad Haif, there was no one except him and me and the driver. I was not in handcuffs or irons. There was no car following ours. We were away from the car for about one hour. My statement to Examining Magistrate: I don't know the date. It was three or four days later that Ahmad Haif took me to Bahalal: and two or three days later with Mr. Miller. I showed Mr. Miller the spots that Ahmad Haif had shown to me. I did not go into the Colony with Ahmad Haif: nor with Mr. Miller. He went

in with a Mukhtar. I did not point out the cow-shed. Ahmad Haif and Sharif told me what to say to Examining Magistrate as well as what to say to Police. I had never been to Bahelal before I was taken there by Ahmad Haif. I had no reason to go there. Even I have been to. I never complained to Mr. Basts or to the Magistrate of the way my wife was being treated; nor to the Prison Inspector. I saw the doctor: I did not complain to him about my wife's treatment. My confession to Examining Magistrate was the day after I made my statement to Police. I do not remember if any report was made on the bomb found outside my house.

TO COURT:- The first time I saw A/1 and A/2 was after I made my confession to Examining Magistrate. One other two weeks later: at Haifa lock-up. When they were brought into the lock-up, I did not know them. Ahmad Haif used to take me out and give me a box of cigarettes. He told me these were Ahmad Ghalayini and Khalil Issa. They were only one or two nights in the lock-up. I had no conversation with them. I saw them two or three times that day, coming out to relieve themselves and going down. A.1 and A.2 were not actually present when Ahmad Haif said to me - "These two men who came are Ahmad Ghalayini, the one with the Turbush, and Khalil Issa". They were not shown to me again. When I had made my statement, I said "Let me out". They said "No", "You have your food: you have your tobacco: you are losing nothing". I did not ask Sharif Eff. what "King's Evidence" meant. But because he said that, that was one of the reasons I made my confession.

1, 2.

Mayer Kleiman.

Recalled by the Court.

A.1

I arrested A/1 on 5th January, 1933. He was then wearing European half boots: I did not notice whether they

A.2

had heels. I also arrested Khalil Issa on the same day. He was also wearing European shoes: half-boots.

(Witness explains that by half-boot, he means an Oxford shoe)

X.Xd.by Asfour:- I did not make a report about the shoes that the two accused were wearing.

Asfour :- My instructions are that A.1's shoes were left in his possession: they were in such bad condition that his friends brought him some more shoes: and the old ones were thrown away.

X.Xn.continuing:- It is not the fact that A/2 was wearing broad toed American boots.

S.O. :- I have no instructions as to what has happened to A.2's shoes (or boots).

D.1. Faris Hamed Shahruri. Sworn.

1. I am a shoemaker in Jewish Quarter, Haifa. I made the leather work for this leg now produced to me. I did not put on the iron: it is 'half round'. Ahmed Ghaleyini put on this iron. I gave him the measurements and told him where to make the holes. It is of the same kind as this. It is same for windows. A/1 was arrested in the beginning of Ramadan. It was about a year ago that A/1 made these irons. I think A/1 bought the iron for the purpose of this leg.

X.Xn. Nil.

D.W.2. Said Dib Ghaleyini. Sworn.

1. A/1 is my brother. These are 2" nipples. I repair gramophones and so forth: like my brother. I was asked to get similar nipples in the market. There are plenty - boxes full - in the town. This is not called saj. It is called "half round". I know Victor Habib Ashi. I remember he brought me a lux lamp to be mended: I was in my father's shop. It is not true that A/1 was then working with us. Victor Ashi is one of A/1's customers: he said the lux lamp belonged to Said Hawila, who sent him to A/1, but that he was not on speaking terms with A/1 since he had quarrelled with him three months previously. This was three or four months before my

my brother's arrest.

X.Xd.:- I was not in Court when A/1 gave evidence.

D.W.3. Muhammad Dib el Hanni. Sworn.

A barber: I know A/1's shop: it is nearly opposite mine. A/1 is in the habit of leaving the key of his shop with me. I open my shop early: either A/1 or A/2 can take the key. He closes about sunset. Before the Police searched the shop, there had not been a day when A/1 had not left the key with me. He sits near the shop on Fridays: if work comes he does it.

To Court:- A/1 always leaves the key with me at night: when I close earlier than he does, he gives me the key before I close: and snaps the padlock which is automatic. I have never known him close his shop during the day.

X.Xn. Nil.

D.W.4. Ahmad Omar el Mursi. Sworn.

I am also called Ahmad Mursi: shoemaker: I work alone with a small boy. I take my key when I open from Ahmad Dib el Han, the last witness, whose shop is opposite mine.

X.Xd. Nil.

D.W.5. Ali Anis el Zeben. Sworn.

I knew Victor Habib el Ashi. I have not spoken to him for about two years. He then said he would send a prison to me to be mended. I mended it. I asked for the money. He refused to pay. We quarrelled: and struck one another. A/1 wanted to make peace between us and quarrelled with Victor.

X.Xr. Ahmad failed to make peace between us. I have never assaulted the Police. On 11.8.31, I do not remember assaulting the Police.

To Court:- I am a tin-smith. I rent a shop. When I am in Court my shop is open and my sons sell things and do simple soldering.

D.W.6. Sh. Saleh Hussain Ashmawi. Sworn.

(For A/1
and A/2).

Employed by S.M.C. as lecturer in the Mosque. There is no such principle in Islam as that 'the faith of Muhammad is raised by the sword'. I know A/1 and A/2. I have never lectured in their houses.

To Court:- I am known as El Haurani.

X/Xn.Gentd.:- There is no other Mudarris in Haifa called Sheikh Saleh. I am not member of a secret society. I never administered ~~g~~ an oath to members of one.

X.Xd.:- I have lectured at Saffuria. I do not go so now: for about one year. Some disturbances took place there, so the S.M.C. instructed me not to go there: through the Mamur Awqaf. It was not because I was making trouble that I was forbidden to go to Saffuria. My house was searched by the police: more than a year ago.

Re Xd/- Nothing was found in my house. I was the only Haifa notable whose house was then searched. They took two books from my house: one against the use of tobacco and the other principles of religion.

To Court:- I do not know Taha Ahmad Taha: I never heard of him. I never saw him at the Mosque. I know A/5 from Saffuria. He used to be in the Mosque when I lectured there. I do not administer an oath to members of the Y.M.H.A. I know Mahmud Zarura: and Sh. Hussain Hamadi. They attend the Mosque in Haifa. I have never seen A/1 in Saffuria. I have seen A/2 there once.

Adjd. (Intd) O.C.K.C.

Resumed.

D.W.7. Abdel Hamid Taha. of Saffuria. Sworn.

I know Sharif el obaid, advocate of Nazareth. He came to see me and talked about this case.

S.G.:- I object to this conversation being given: it is hearsay.

Asfour :- Hearsay is admissible on behalf of the Defence.

I cannot give authority.

COURT :- The conversation is inadmissible.

Witness:- I did not take any action in consequence of this conversation. I told A/S's brothers what Sharif Eff. had said. I gave them some advice.

X.Xd. I was with accused's brothers when they selected Sharif Eff. to defend A/S.

to Court:- Sharif Eff. showed me a paper which he stated was from A.G.

D.W.B

Muhammad Ibn Muhammad el Awad.

Sworn.

(For A.5).

on the day of the murder I was camping in Bahalal forest. Next morning Ahmad Jaber and another P.C. came from Nazareth to search. Kh.el Iskif is about 1/2 hour away. Suliman Francis of Saffuria, I know; I have never bought tobacco from him. He came about one month after the Bahalal Case.

X.Xd.:- I have not seen tobacco with Suliman. I made a statement to Police. I do not remember saying that Suliman used to come at night. I do not remember saying that I was sure that Suliman had come before the murder. I was asked whether he came two or three years before the crime. I said "He comes".

Asfor :- I object to the witness being asked as to buying smuggled tobacco; it is an offence.

X.Xd.continued:- On the day after the crime Suliman Azar came and took me. My statement was taken down in writing: I thumbprinted it.

Re Xd.:- Suliman Francis was present when I made my statement. Statement put in: read.

D.W./ 9.

Barias Audi el Ali.

Sworn.

(For A.5).

on the first day of Ramadan I was camping in Romani lands. Police came and showed me a notice about a reward for discovery of offenders in Bahalal crime. I am a watchman

for Bishop Hajjar. I had been camping there two months and more. I know Khadra Jindawi. She is sick: she camped across the Wadi from me. She was there when the Police came. Romani is N.E. of Saffuria. W.Kana is N. of Romani. Kh. el Kandoli is S.W. of Saffuria. I was camping one hour from Saffuria: and it is another hour to Kh.el Kandoli or Kh. el Iskif.

X.Xd.:- I know Suliman el Francis. I have seen him at our camp. I do not remember that he ever came to sell tobacco.

Re Xd.:- Nil.

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~
Muhammad Baker el Mudawara. Sworn.

I know accused Khalil el Issa. He is our neighbour: near Rushmin Bridge: we have been neighbours for about a year: until he was arrested: Nebi Shana: I am told is half hour from my house. Before Ramadan he used to spend every evening chatting in my house until his children went to sleep. I am from Masraat Beni Marreh: I don't know that Khalil is from my village.

X.Xd.:- A/E lived in a hut.

D.W.11. Muhammad Abd er Rahim. Sworn.

Grocer. This is my account book. It contains an entry that on 22nd December, 1932, Khalil el Issa Abu Ibrahim paid me 12 piastres. He was in my shop on that day. I made this entry at the time. He paid another 5 piastres on the 23rd and bought something for half a piastre.

To Court:- I added Khalil el Issa in pencil at the head of the account because another Abu Ibrahim used to deal with me and I wanted to distinguish between them.

X.Xd.:- My shop is a long way from Rushmin Bridge. A/E has been my customer about two years. I opened this account on 18th December last. I opened the book on 17th November, 1932. Since then 3 or 4 or 5 accounts have been torn out:

including that of the other Abu Ibrahim, whose name is Khalil Soulem. I don't know if A/2's wife ever deals at my shop.

Re XdW:- Abu Ibrahim's account is on p.88. Ahmed Ghelayini's account is p.89.

2.10.33. Adjd. (Intd) C.G.K.C.

Resumed. 3rd October, 1933.

Gerald Foley. Sworn. Called by Court.

GF/1. D.S.P., Haifa. I produce copy letter dated 19th
GF/2. May, 1933, written by Sharif Zobi to the A.G. The copy was
sent to me. I also produce letter written to me by Acting
Inspector General, Police and Prisons, dated 25th May, 1933.
GF/3. I wrote to Muhammad Sharif Zobi on 27th May, 1933:
I now produce the copy letter: read and translated.

(Note- GF/1 and GF/2 were read in evidence by Mr.H.P.Rice,
Acting Inspector General).

X.Xd.:- The standing order is that a confidential letter
from my office - like GF/3 - is sealed with wax.

W.29. Taha Ahmad Taha. Recalled by Court.

The man by whom the oath was administered to me when I
joined the Secret Society, Sh. Saleh Haurani, is now in Court.
(points out D.W.6, Sh. Saleh Hussain Ashmawi).

D.W.6. Sh. Saleh Hussain Ashmawi. Recalled by Court.

I have never met the witness Taha before to-day.
I do not know why he should give this evidence.

- - - - -

S.G. addresses the Court:-

1. Deceased were killed by explosion of a bomb in their house at Mahalal. (Mrs. Jacobi; Dr. Kaufman).
2. Pieces of exploded bomb from a bomb similar to that found at Saffuris. Contents were cut in same way. (Miller).
3. The exploded bomb was made by A/1 and A/2.
- (4) They worked together in one shop.

- (b) Both were members of a secret terrorist society.
- (c) One man in shop could see other working. Size of shop: only one bench.
- (d) 2" cap (MK/4): Japanese: rare. (Altenhaus: Wilbur Shevitch). Gourd T.M.

Sole agents, Dixengoff (Wetzel, Berghelm). Only 30 received before date of murder: all sold to Zimmerman.

A/1 bought two caps. (Omran, Latz, Ashi).

A/1 cannot account for two caps. They were not in the shop when searched.

- (e) 1/2" cap. T.M. 'G.G.'. Only one order for Palestine: for Sabbagh. A/1 deals with Sabbagh. Cap bored from both sides: same in both bombs.

(f) 2" nipple. Nipple on bomb resembled part of MK/6. Ordinary commercial commodity. Story told by A/1 as to manner in which he obtained nipples is obviously false.

(g) Contents of bomb. Similar metal found in A/1's shop.

(h) Vice-marks. No similar vice found by police in Haifa.

As to (b).

(1) Sgt. Ahmad Raif. A/5 and A/2 both members of Y.M.M.A., Saffuria. Saw A/1 and A/2 at meetings at Saffuria.

(2) Taha Ahmad Taha.

(3) A/2, A/5 met at Saffuria on night of crime. Suliman Abdel Ghani; Ali Ibrahim Suliman; A.S.P. Miller; Tracker Musa Diab. Confession of A/5.

(4) Tracks: One Arab, two European.

(5) Finding of bomb at A/5's house.

(6) Untrue denial by A/1 that he had been in Saffuria. (Sgt. Ahmad Raif, Taha). Untrue denial of purchase of 2" caps. Untrue denial of knowing A/5.

(7) Untrue denial by A/2 that he had been in Saffuria for a year before his statement.

(Abdel Moti, Sgt. Raif, Suliman Abdel Ghani and Sh. Saleh).

Untrue denial that he had seen 1/2" nipple in the shop. Defence is that case is fabricated by Police. Barber's evidence does not establish alibi for A/1. A/2 does not

give satisfactory reasons for his visits to Saffuria; and puts dates much earlier than they actually were. He admits seeing Sgt. Naif in Saffuria; and Taha in Haifa. Sh. Saleh for defence admits that S.M.C. forbade him to visit Saffuria. A/2's alibi: there is conflict of evidence as to the length of time he had lived in Alut. Grocer, quite unreliable: alibi not raised till nine months after arrest. A/3 states that he was induced to make a false confession by his advocate. His brothers chose the advocate.

Asfour - for Defence :- There are two guards at Bahalal. No Arab dare go there at that time. The object of the original knocking was to bring Jacobi to the door. There was no evidence of previous knowledge by any accused of Yakobi. Nothing to support Count 1 of Information. Defence had no opportunity of knowing what evidence Taha would give. We say there was deliberate suppression before Exam. Magistrate.

As to A/1. He bought two 2" caps. Prosecution have not proved where the other two caps went. C.L.A.O. (No. 2) 1927, S.4. "Tweedy Miller Case" - R. v. Jibawi. Accused who waited outside was acquitted of murder. Omran and Katz forgot Alterhausl and few who bought daily from them. They did not know A/1's name. Melts before Magistrate swore that only one order had been placed for 2" Japanese caps. Identification Parade: what Omran and Katz were asked to pick out was the man who bought tools from them: not fittings. Omran says 6.11.32 was the date of purchase. Ashi went to the shop for the last time in September 1932. Ashi says that A/1's brother had been working with him. Said stated that he had not worked with his brother A/1 for two years. Ashi was only in the shop for a few minutes: he gave no reason why he should have remembered seeing these ~~xxxxxxx~~ 2" caps. MK/7 had been hammered since it was cut: so A/1 says. 1/2" cap: no evidence that A/1 bought any. Vice: no satisfactory identification ~~xxxxxx~~ as marks on iron. Miller

said that he could not say definitely that MK/5 made the impressions. Muhammad Said Abdel Motti never saw A/1 at Saffuria. Taha said to Magistrate that he had been a member of Y.M.M.A. and had left it. In Court he denied that. (No: see p.50). He said he did not suspect A/1 and A/2 of the Nahalal crime. No case against A/1.

Against A/2. Ashi, Sgt. Ahmed Naif, Muhammad Said Abdel Motti. There is no reason why he should have seen A/2 in his guest house. A/2 to Police said that he had seen 3" nipples in the shop.

As to Suliman Francis: He says it had begun to get light when he saw the three persons by the well (p.34). The crime was committed between 9 and 10 p.m.: Mrs. Yakobi. Distance Nahalal to Saffuria 2 1/2 hours. Statement as to selling tobacco is untrue. No statement to Police till 15th July.

Adjd.

4th October resumed.

Affair - continuing :- As to A/3. There is nothing except his confessions to connect him with the case. We do not allege promise made by Police to accused, but a promise made by accused's advocate. D.S.P. Foley has stated that he sent a confidential letter to the advocate and that all confidential letters from his office were sealed with red seals. Defence were entitled to infer from D.S.P.'s letter that once the investigation was complete a guarantee of indemnity would be given. Actually his wife was released very soon after he had made his confession. Sharif Eff., the advocate, was present at all the stages of the confessions. Sgt. Ahmed Naif was also present at all stages of the investigation: though he was then stationed in Haifa. In the confession A/3 says that it was "in the middle of Ramadan" that they went to H. He mentions breaking his fast. Ramadan began on 28th December 1932.

MB/32

The rifle could not have been the property of A/1 as

stated in the confession: as a prosecution witness, the Makhtar of Saffuria had seen and fired it a year ago.

W.R. the search: the report of Cpl. Patrie which has been read contains no reference to the bomb. The woman was ordered out of the house. There is a clear contradiction between Cpl. and P.C. as to what accused: and between P.C. and Cpl. and Makhtar as to what the P.C. shouted.

It is untrue that the Police were surprised at the confession made by A/S. They knew for some time previously that he was considering making a statement.

The tracks N. of road do not agree with the statement of A/S as to the places they went to.

The Police have taken plaster ~~mxk~~ casts of the footprints. As they have not put them in evidence it may be inferred that they do not agree with any shoes that have been found with the accused.

There is no reason to regard the grocer's account book as forged.

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/mk.

J U D G M E N T .

The accused, Ahmad Dib Ghelayini, Khalil Mohamed Issa and Mustafa Ali el Ahmed are charged with the premeditated murder of Youssef Yaccubi and his son David Yaccubi.

The Information charges the accused under two counts, of which the first is framed under Art.170 of the Penal Code and Sec.3 of the Criminal Law Amendment Ordinance (No.2), 1927; and the second under the same Article of the Penal Code and Sec.4 of the Criminal Law Amendment Ordinance (No.2), 1927.

On the night of the 22nd December, 1932, Yusef Yaccubi and his son David were sleeping in a room in a house in Mahalal, in which Yusef Yaccubi's wife and daughter were also sleeping.

Between 9 and 10 in the evening a pane of glass in one of the windows of the room was broken and a bomb thrown into the room. The bomb exploded and inflicted wounds upon Yusef and David Yaccubi, from which they subsequently died.

As a result of a post mortem examination a fragment of the bomb was extracted from David Yaccubi's lung.

The Police collected other fragments of the bomb from the room and have succeeded in identifying the components of which it was constructed. These were, a black 2" cap of tempered cast iron, part of a 2" nipple, a 2" to 1 1/2" reducer, a 1 1/2" nipple and a 1/4" cap.

The Police also found in the room two lozenge-shaped pieces of metal.

A tracker found the shoe prints of three men leading from a point on the main Haifa-Nazareth Road southward to the outer wire fence of Mahalal and thence in a south-westerly direction to a spot just outside the inner wire fence of the settlement at the point where it is nearest to Yaccubi's house and followed the tracks of the same shoes west to the

main road.

On the 10th of April, 1933, the Police searched twelve houses at Saffouria, including that of the accused Mustafa. As the search party entered the house, a woman, who has since been identified to be Mustafa's wife, came out and walked round to the back of the house. She was watched by Police Constable Ahmed Jaber who saw her throw something away. He shouted and Corporal John Petrie who was searching Mustafa's house, came out and ran round to the back of the house where he picked up two objects; a metal cigarette case and a bomb.

Upon examination, the bomb proved to be constructed of exactly the same components as the bomb which had been exploded at Mahalal. It contained one lozenge-shaped piece of metal similar to those found at Mahalal and also a piece of metal of the kind known as "half-round". The bomb contained explosive. Through a hole bored in the 1/2" cap was inserted a piece of fuse. The 2" cap was of the same make as the one used for the Mahalal bomb and bears the same trade mark, namely, a gourd which is the mark of a Japanese firm "Tabatta". Evidence has been given to the effect that the hole in the 1/2" cap was made in the same manner as the hole in the 1/2" cap found at Mahalal: that is, the boring had been done from both sides. The lozenge-shaped pieces of metal found in the two bombs bear marks left upon them by the vice in which they were clamped: and evidence has been given to the effect that these marks might all have been made by the same vice.

We are satisfied that the bomb found at Saffouria was made by the person or persons who made the bomb used at Mahalal.

The accused Mustafa ~~thaxfix~~ at first denied all knowledge of the bomb found outside his house. On the 29th May, however, he made a statement to the Police in which he admitted that he was one of a party of three who went to Mahalal on the night of the crime, and that while he stood just outside

the inner fence of the settlement the two men who were with him went inside the fence up to one of the houses; that he heard the sound of breaking glass and then somebody speaking inside the house. The other two men came back towards him and before they reached him he heard a loud explosion. He then ran away, being followed by the other two men, one of whom stated to him that he had thrown a bomb into the window. The accused Mustafa also said that before they parted the same man handed him the bomb which was found outside his house.

On the next day (the 30th May, 1933) the accused Mustafa repeated this statement in substantially the same terms in the presence of a British Magistrate, after having been duly cautioned.

On the 3rd of June, 1933, the accused Mustafa with the A.D.S.P., Miller, P.C. Wheatley, Sgt. Ahmed Raif, and an escort went by car along the main Haifa-Mazareth Road to a point near Bahalal. The accused there pointed out to Mr. Miller the route which he and his two companions had followed from the road to the outer fence of Bahalal and from thence to the inner fence and back to the road. We are satisfied on the evidence given that the route thus pointed out by the accused co-incided throughout with the line of the footprints found by the tracker.

It has been suggested by the Defence that the confessions made by the accused Mustafa were made in consequence of promises made to him by the Police through Sherif Eff. Zobi, the advocate who was advising him at that time. We have heard the evidence of the Police Officers concerned and have seen the correspondence on the subject called by the Defence and we find no evidence of any promise made by the Police to the accused.

It has been further suggested by the Defence that the reason for the accused Mustafa pointing out to Mr. Miller as his route on the night of the crime, the line where the footprints had been found by the tracker, was that the accused had been taken to the spot a few days before by Sgt. Ahmed Raif by whom the line had been pointed out to him.

We do not believe this. We hold that the accused Mustafa's confession is sufficiently corroborated by his knowledge of the route followed by the party from the main road to Nahalal and back; by the similarity of his account of what occurred to the evidence given by Mrs. Yacoubi; and by his possession of a bomb of exactly similar construction to that of the bomb used at Nahalal.

Accordingly we unanimously find the accused Mustafa guilty of the premeditated murder of Yusef and David Yacoubi.

The accused Ahmed Ghelaying was working, until his arrest, as a plumber in Haifa and the accused Khalil Mohammed Issa was working with him in his shop as his apprentice.

✓ Evidence has been given, which we believe, that on November 6th, 1932, the accused Ahmed bought from the shop of Mr. Zimmerman in Haifa, two black 8" caps manufactured in Japan by the firm of Tabatta and bearing that firm's trade mark, a gourd, identical with the caps used in the bomb exploded at Nahalal and that found at Saffouria. Evidence has been given by a member of the firm who are sole agents for Tabatta in Palestine that up to the time of the crime, only 30 such caps had been imported into Palestine all of which had been ordered by and delivered to Mr. Zimmerman. Of these 30 caps 20 were bought by the Public Works Department and two by a man named Alterhaus, while four remained in Zimmerman's possession. These 26 caps have been produced in Court. Of the remaining four caps two were bought by the accused Ahmed and the other two cannot be traced.

Unless, therefore, these two untraced caps were used, the 2" caps used for the construction of the bombs must have been those bought by the accused Ahmad.

It is thus of the utmost importance to note that when Ahmed made a statement to the Police on the 11th January, 1933, he denied all recollection of having bought 2" caps from Zimmerman, although the evidence of Zimmerman's employee,

Miss Guran, proves that Ahmed paid three visits to the shop in connection with the purchase, the last visit having been only about two months before Ahmed made his statement, namely on the 6th November, 1932.

3 The inference to be drawn from the accused's denial of this purchase is that he is not prepared to say why the caps were bought or how they have been used.

When the Police searched the shop where the accused Ahmed and Khalil worked, they found in the shop a string of nipples, 19 of which were of 2" diameter. These nipples are an ordinary commercial commodity and bear no mark of origin. But it is significant that the accused Ahmed denies having purchased them and tells what we can only regard as an improbable story that they were left in the shop by a man he did not know as payment for having used the shop during Ahmed's absence.

4 Again, it is significant that the 1/2" caps used on the bombs bear the trade mark "GG" which is that of a German firm, Glittenberg Bros. of Velbert, and that the Haifa agents of the firm, Mr. Weiner, had testified that the only consignment of such caps imported were ordered by Sabbagh Bros., from whom the accused Ahmed is in the habit of buying.

5 The shop contained a vice with regard to which evidence has been given. This evidence may be summarised in the answer given by Mr. G.H. Miller, Armourer to the Police, in reply to a question by the Court. Mr. Miller, who had previously stated that the impression made by the vice on the fragments found at Mahalal had been affected by corrosion and distortion, said:-

" With regard to the other vices I examined, I can say definitely that they did not make the impressions on the Mahalal fragments. I cannot say that the accused's vice did not make those impressions, nor can I say definitely that it did make them".

6 The evidence connecting the accused Ahmed with the crime, however, does not rest solely upon the components of

which the bombs were constructed. A witness, ~~xxxx~~ Taha Ahmed Taha, has given evidence that he and the accused Ahmed and Khalil were members of a secret society in Haifa which from time to time made bombs out of tins, some of which were sent to Saffouria, the others being stored in some place unknown to him to be kept for "riots in the future".

This witness further stated that at a meeting of the Society, at which the accused Ahmed and Khalil were present, two or three days before the murder, there was a discussion with regard to killing Jews in a Colony lying between Zaidel and Jaida, on the Nazareth Road, the name of which he did not know.

Evidence of this kind is obviously of doubtful reliability. This witness, however, has been submitted to a lengthy cross-examination by the Defence, who has also called evidence to disprove some of his statement. The impression made upon us is that Taha is not to be dismissed as a wholly unreliable witness and that his evidence may be accepted as corroborating the other evidence against the two accused.

Combining the evidence of this witness with the evidence as to the components of the bombs used at Mahalal and found at Saffouria, we hold that the two bombs were made in the shop of the accused Ahmed and that the accused Ahmed purchased the 2" caps for that purpose. It is clear that the bombs of such elaborate construction could only have been made with a view to homicide, and we hold that they were made with the object for which one of them was used, namely for the purpose of killing Jews in Palestine.

We therefore hold, by a majority, that the accused Ahmed, who bought the 2" caps with this purpose in view, is guilty of premeditated murder.

With regard to the accused Khalil, there is no evidence that he took any step towards the manufacture of these two bombs.

Evidence was given by a witness Sulaiman Ahmed Abdel

Chari, that the accused Khalil was in the company of the accused Mustafa at Seffouria on the night of the crime. This witness, however, did not give the impression that his statements could be accepted without confirmation.

There is other evidence that Khalil had been seen in Seffouria on two, or possibly three, occasions; but beyond the fact that he was present at a meeting of the Seffouria Branch of the Young Men Muslim Association, of which accused Mustafa was a member, there is no evidence suggesting any connection between the two accused.

We hold, therefore, that there is not evidence upon which the accused Khalil can be convicted and he must be acquitted.

With regard to the Law applicable, a further question arises, as it has not been suggested by the prosecution that either of the accused had any intent to kill either of the Yacubis, or indeed was aware of their existence.

Provided, however, that a premeditated intent to kill is proved, it is not necessary to show that the premeditated design was directed against a particular individual; and the Assize Court of Cyprus has so held upon more than one occasion. See R. v. Chakoli, 8 C.L.R., p.93, and R. v. Agathocles, 8 C.L.R., p.97.

It follows that both the accused Ahmed and Mustafa, each of whom has done an act with a view to the commission of homicide, come within the terms of Art.170 of the Penal Code, read with Sec.3 of the Criminal Law Amendment Ordinance (No.2), 1927.

Upon the civil claims, judgment will be entered in favour of the heirs of Yusef Yacubi for £P.250, and in favour of the heirs of David Yacubi for £P.150, against the accused Ahmed and Mustafa, jointly and severally.

(Sgd) C.G.K.Gerrie,
Acting Chief Justice

(Sgd) G.R.W.Seton
President District Court

SENTENCE.

The accused Ahmad Dib Ghelayibi and
Mustafa Ali El Ahmed, will suffer death according
to law.

5th October, 1933.

(Sgd) O.C.K. Gerrie
ACTING CHIEF JUSTICE

(Sgd) C.R.W. Seton
PRESIDENT DISTRICT COURT

(Sgd) Mohammed Shafiq Dajani

(Sgd) Rafiq Abu Ghazaleh

/MR.

TRANSLATION.

OPINION HELD BY THE DISSENTING JUDGE.

I do agree with the learned Judges in finding accused Mustafa Ali Ahmad guilty as a premeditated murderer, under Art. 170 of the Penal Code; and in acquitting accused Khalil.

But as to accused Ahmad Dieb Ghalayini, it was proved that he only made the two bombs. There was no sufficient and satisfactory evidence before the Court showing that he acted as an accessory with acoed. Mustafa in the murder. There was also no evidence before the Court proving either his presence with Mustafa in the scene of the crime, meeting him on the night of the crime, or visiting him at any time.

It was held by this Court that they were not satisfied with the evidence given by witness Suleiman Abdel Ghani Francis.

Further, I am dissatisfied with the evidence of Taha Ahmad Taha, which is a clear lie.

Admission made by Mustafa to Police and the Examining Magistrate would be only valid against him, but not against accused Ahmad.

The evidence that Ahmad made the two bombs does not necessarily prove that he aimed at killing the victims, or any other Jew. It does not prove that he had made the same bombs by a previous agreement with Mustafa.

The mere inference or presumption, not supported by a satisfactory evidence, do not suffice for

conviction in such cases.

Owing to the abovementioned reasons, I am of the opinion that accused Ahmad should be acquitted from the charge of acting as an accessory in the murder. He should be found guilty for having made the bombs, under A. Section 12 of the Criminal Law Amendment Ordinance, (NO.2), of the 1927.

(Sgd.) Rafiq Abu Ghazaleh, J.

20th November, 1933.

In the Supreme Court sitting as a Court of Appeal.

Re the appeal of Ahmed Ghalyeen and Mustafa Ali
el Ahmed, represented by Ouni Bey
Abdel Hadi and Mr. J. Asfour, advocates.

Versus

The Attorney General.

Grounds of appeal.

- 1- The Lower Court erred in refusing to direct the amendment of the information as filed. In the information to which accused were made to plead there was one count only but with two specific, yet contradictory, particulars. The application of sections 3 & 4 of the Criminal Law Amendment Ordinance No. 2 of 1927, together is wrong, each of which sections gives specific circumstances unreconcilable with the other. Reference is made to a decision by the Court of Criminal Assize in Assize No. 37/32, wherein the Court upheld a similar objection.
- 2- The witness Taha Ahmed Taha was heard by notice. His statement turned out to be the most important and no previous mention was made by him to enable the defence to reply. The Lower Court erred in refusing a delay of 24 hours at least for the defence to be enabled to meet this witness's evidence and the defence was thus gravely embarrassed; particularly so as on this statement alone one of the accused, Ahmed, was sentenced to death.

- 3- The witness Said Abdel Mo'oti was recalled by the Court to depose on certain points. The Lower Court, contrary to the rule laid in *M. V. Watson* (6.C.&P. 653), refused to allow counsel to cross-examine on the points mentioned by this witness when recalled. Such right of cross-examination is not discretionary but is, it is submitted a matter as of right.
- 4- During the proceedings several matters, through numerous witnesses, were brought to light by witnesses who were called by notice. While the law, it is admitted, makes no limitation to the number of witnesses who could be called by notice, yet it is humbly submitted that when the number of such witnesses exceeds the normal number, namely one or at the most two, there is irregularity of procedure which does and in fact in this case did surprise the defence.

Grounds regarding Ahmed Ghalyeani.

- 1- There was no evidence upon which the Lower Court could find that Ahmed made the two bombs, namely that which exploded in Nahalal and that alleged to have been found near the premises of accused Mustafa, were-made. The evidence, defective as it was, only shewed that accused Ahmed bought two 2" caps similar to those caps which formed the base of the two bombs.
- 2- The evidence of purchase of two 2" caps by Accused Ahmed was not sufficiently corroborated because not only the two witnesses, Omran and Ketx, were unable to account for any other sale of such caps but the book on which they relied in their evidence gives no specification whatever either of the name of the buyer or even of the goods sold.

- 3- The evidence that only 30 2 1/2 caps of the same make were indented for prior to the date of the outrage, namely, the 22nd December, 1932, was obviously wrong. Both the witnesses Bergheim and Helts deposed that only one indent was made up to that date and both corrected themselves, only on cross-examination, that another indent was made prior to the same date and to the same consignee, Zimmerman.
- 4- The deductions made by the Lower Court that since accused Ahmed was unable to account for the two 2" caps which, the Court found he had bought, he must therefore have made the bombs, is not based on any evidence. In fact there was evidence to prove that even of the thirty 2" caps which were in the possession of Zimmerman, the dealers were able to account for 28 only and there are up to the present two 2" caps more unaccounted for.
- 5- There was no evidence whatsoever to connect accused with the murder, even if it is allowed that he made the bombs. The evidence of Taha Ahmed Taha which was, to quote the version of the judgment ' obviously of doubtful reliability' was not materially corroborated as to the formation and function of the alleged secret Society and did not in itself make any liason between the making of the bomb and the murder. In cases of this magnitude, and indeed in any other case, the statement of a witness which "is obviously of doubtful reliability" cannot be taken as basis for a judgment and much less for passing a sentence of death. There were other witnesses whose evidence was of the same 'reliability' which the Lower Court, in this case, refused to rely upon.

Grounds regarding Mustapha.

- 1- The only evidence against accused is that of his alleged confession. This confession is not admissibly because:-
- a) There was a promise made by the Deputy Inspector-General of Police, in his letter to the District Superintendent of Police Northern District, by which accused was to be taken as King's witness as the Police were, as in paragraph 4 of the said letter, not going to make any "departure from the usual custom should Mustafa Ali Ahmed make a statement and give evidence against any persons in the case under reference".
 - bb) This promise was again repeated to the accused's Counsel (Sharif zo'obi) by the District Superintendent of Police, Northern District, in his letter to counsel where in it is mentioned " I cannot give your client any guarantee of indemnity as the investigation is not yet completed".
 - c) There was material corroboration of the statement made by Accused Mustafa before the Lower Court namely; the fact that the then counsel was, contrary to any practice and without any precedent, very active when the confession was extracted and was present at all stages of such confession; the fact that Accused's wife, whose bail was opposed very gravely by the Police, was released immediately after the accused made the confession; the fact that Sgt. Ahmed Naif was present, without any lawful cause or even an excuse, at all stages of the enquiry even on every occasion when accused was brought before the Magistrate to be remanded; and the fact that the Police themselves knowing the circumstances under which such confession was

extracted, lost no opportunity in bringing the same accused before the British Magistrate to repeat his confession and on oath, after ordinary Court hours.

2- The confession, even if allowed to stand, when taken as a whole and should, it is submitted, be so taken, only shows that Mustafa was out to help in the theft of oxen. No conviction has been made under Section 4 of the Criminal Law Amendment Ordinance No. 2 of 1927, therefore the conviction under Section 3 of the same Ordinance, cannot stand since there was no evidence that accused Mustafa had any intent to murder.

3- Section 4 of the above Ordinance was on the information. No conviction under it therefore an acquittal. According to confession, as found to be admissible, the murder was an ultimate result of the prosecution of an unlawful purpose, namely, the theft of animals, therefore there can be no conviction, at any rate, under section 3.

4- From the alleged confession, Mustafa was not present at the murder. On the contrary there is evidence that he was far away and could not even recognize who of the two other criminals advanced towards the house and who of them remained behind.

For the above and also in view of the admissibility of evidence, namely, what the accused Mustafa is alleged to have said to Cpl. Petrie and P.O. Ahmed Jaber, which was inadmissible, prayer is made for setting aside the conviction and sentence and the discharge of both accused

Counsel for defence.

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 Loringoff was central office

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 had no agents before us.
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 before we took the agency

anywhere

p. 13

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JUDGMENT.-

The accused, Obaid Mustafa Haser, Jamil Ali Said and Ali Abed Hamdan, are charged with having stabbed Yusef Abdel Karim Abdel Hadi with daggers, thereby causing his death, contrary to Art.170 of the Penal Code and Sections 3 and 4 of the Criminal Law Amendment Ordinance (No.2) 1927.

The accused, Wajih Abdel Karim Abdel Hadi, is charged with premeditated murder under the same Sections. The charge against him is that he aided, counselled and procured the three other accused to commit the offence.

Yusef Abdel Karim lived in a house in Sharia Habs ed Dam, Nablus, the entrance being at a distance of less than 30 metres from its junction with Sharia Serai el Qadim, at a point 65 metres east of the square in which the clock Tower stands.

At about one hour after sunset the sound of a shot was heard in Sharia Habs ed Damm. Witnesses who went to see what had happened, found Yusef lying dead in Sharia Serai el Qadime, a few metres West of the bottom of Sharia Habs ed Damm. Two stab wounds were found in the body, one of them being fatal.

Between the door of Yusef's house and the place where his body lay, spots of blood were seen in the roadway.

The accused, Obaid, was arrested on the morning of the 1st of July; and on the 8th July he made a statement in which he admitted that he had taken part in the murder. (Exh.HMK/2).

Obaid now declares that he made the statement in question because he was beaten by the Police. There is, however, no evidence of this except his own statement; and to the contrary there is the evidence not only of the Police themselves, but of a witness, Hamzeh Haj Said, who was under arrest at the same time, and states that Obaid never complained of having been beaten. We see no reason,

therefore/

therefore, to exclude evidence of this confession.

Apart from the confession, moreover, there is other evidence against this prisoner.

About 3/4 of an hour after sunset on the 30th of June, that is to say, 1/4 of an hour before the murder was committed, Obaid and another of the accused were seen by Faiz Hussein Libbadeh going from the Clock Tower Square along Sharia Serai el Qadimeh in the direction of Sharia Habs ed Dam: and about ten minutes later Faiz saw Yusef Abdel Karim going in the same direction.

Muhammad Shakib Abdel Hadi who lived in the same house as Yusef Abdel Karim, returned home shortly before him and passed two men in Sharia Habs ed Dam, one of whom he subsequently identified as Obaid.

There is also the evidence of Abdel Jabbar Muhammad el Abed who saw Obaid and the other two accused together in a shop in Hablous on the afternoon of June 30th, at which time Obaid alleges that he was not in Hablous.

Obaid moreover admitted to the Police that he and two other persons had spent the night before the murder at the Ikbal Hotel in Hablous; having registered there under false names which he gave to the Police. The hotel keeper was unable to identify Obaid or either of his companions, but the hotel register for the night in question contained an entry of the three names given by Obaid.

The names given were those of three persons living in Gabalan, and it is to be noted that the defence did not call any of these persons to prove that they had stayed at the Ikbal hotel on the night in question.

Obaid also pointed out to the Police the garden of Muhammad Ajaj adjoining Sharia Habs ed Dam where he said he had thrown his dagger while running away after the commission of the murder and on searching this garden, the

dagger/

dagger was found there. Obaid further pointed out another garden near Ras el in into which he said he had thrown the sheath of the dagger; and upon search being made, the sheath was found in that garden.

Evidence was also given by Hamzeh Haj Said as to the deposit of a sum of £P.40 with him by the accused Wajih, to be paid to the person who produced the Sanad which he, Hamzeh, had handed to Wajih. Hamzeh further gave evidence that Obaid, together with the accused Jamil and Ali came to him and one of the other accused in Obaid's presence inquired from him whether the money had really been deposited with him by Wajih, and that he had replied that such was the case. The sum of £P.40 in question was actually found in Hamzeh's possession by the Police.

Apart from the question of a reward, there is also the evidence of Faiz Libbadeh that Obaid bore enmity towards Yusef.

We find that Obaid is guilty of the premeditated murder of Yusef Abdel Karim.

The accused, Ali Abed Hamdan, who was arrested on the 9th July, made a confession to the Police on the 13th July after having been duly charged and cautioned. (Exh. WM/2). He too alleges that he was beaten, but in his case also there is the evidence of Hamzeh/Haj/Said that he made no complaint of having been beaten; and we hold that the confession is admissible in evidence.

Ali, who denies that he was in Habbus on the afternoon before the murder, was seen there in company with Obaid by Abdel Jabbar. Moreover, Hamzeh Haj Said testifies that Ali, in company with Obaid and Jamil came to him to inquire about the money deposited with him by Wajih.

This evidence is confirmed by evidence given by the Police as to a conversation between the accused and Hamzeh in the Police Station with regard to the money deposited by

Wajih/

Wajih and the Sanad given by Hamzeh in respect of it. We should not have allowed evidence to be given as to this conversation by questions put to a prosecution witness on behalf of the accused Ali.

Ali also picked out the dagger found in Muhammad Ajaj's garden from a number of other daggers and stated that it belonged to Obaid.

In his confession, Ali stated that he was carrying a revolver on the night of the crime and that he shot at Yusef, but missed him. This is corroborated by the fact that a revolver was found thrust into a crack in a heap of building stones just opposite the entrance to Yusef's house. One chamber of the revolver contained an empty case and smelt of powder. Further, a holster which, it has been proved, was made to fit the revolver in question, was produced by Ali from his village where it was in the custody of one of his relatives. No explanation of his production of this holster consistent with his innocence has been put forward on Ali's behalf.

We find the accused Ali guilty of the premeditated murder of Yusef Abdel Karim.

The accused, Jamil Ali Said, who was arrested on the 2nd July; and evidence was given that on the 14th July, after having been charged and cautioned, Jamil made a detailed confession. (Exh. MS/3).

The Police Officer to whom this statement was made, gave evidence that Jamil was not threatened; that no promise was made to him; that he was duly cautioned and that his statement was made freely and voluntarily; and accordingly it was admitted in evidence. Subsequently, the witness Hamzeh Haj Said, who was under arrest at the same time as Jamil and was released on the 14th July, stated that the day before he himself was released, Jamil was weeping and groaning and complaining that the Police had beaten him. In view of

Hamzeh's/

Hamzeh's statement, we hold that the evidence as to the confession made by Jamil the following day is inadmissible, even although before he made it, Jamil was duly cautioned.

See R. v. Dagherty 13 Cox 25, cited in Archbold's Criminal Pleading, 38th Edition, at p.402.

We have therefore to consider what other evidence there is against Jamil.

Now Hamzeh states that seven or eight days before the murder, Jamil came to him with the two murderers, Obaid and Ali, and was present when Ali asked whether the money had been deposited with him by Wajih; and was told that £P.40 was deposited with Hamzeh and would be paid to the person by whom the sanad given by Hamzeh was produced.

There is also the evidence of Abdel Jabbar Muhammad el of Abed/Qaryut, who saw Jamil in Habbus on the afternoon of the murder in company with Obaid and Ali, and later in the same afternoon saw Jamil again with Ali in the latrines by the great Mosque. Abdel Jabbar further gives evidence that on the following day, Jamil came to him in Qaryut and asked him not to tell anyone that he had seen him in Habbus.

Finally, Jamil was seen by Faiz Libbadeh with Obaid going from the Clock Tower Square towards Sharia Habb ed Damm three quarters of an hour after sunset. We know that Obaid was then on his way to Yusef's house with the object of committing the murder; and that Yusef was in fact killed about a quarter of an hour later, at a point less than 100 metres away from the spot where Obaid and Jamil were seen together.

In view of Jamil's knowledge of the money deposited with Hamzeh, and in the absence of any attempt to prove that his association with obaid just before the murder was innocent and ceased before the actual commission of the crime, we find the accused Jamil guilty of the premeditated murder of Yusef Abdel Karim.

Against/

Against the accused Wajih Abdel Karim it has been proved that the revolver found in the stone-heap opposite Yusef's door-way was Wajih's property.

Until the commencement of the trial, Wajih denied all knowledge of the revolver. In Court, however, he had admitted that he formerly owned the revolver, but stated that about six months before the murder he had sold it to his cousin Hikmet Ahmad Abdel Hadi.

Hikmet denies this allegation: and while we are not disposed to place much reliance upon him as a witness, we do not believe Wajih's story.

Wajih also admits having deposited £P.40 with Hamzeh Haj Said. He explains that he intended to go out to Qaryut and buy seeds and cattle. The deposit was made according to Wajih's own statement, about a month before the murder: i.e. about the 1st June.

On the 17th June Wajih borrowed £.40 from Nehad Arafat, for the purpose of paying experts' fees in connection with an action, and buying cattle. Wajih gave no receipt for the sum borrowed, but a few days later he endorsed over to Nehad the bill for £.40 signed by Hamzeh.

In determining whether the deposit with Hamzeh was made for a lawful purpose; or was, as the prosecution allege, a means of securing to the other accused payment for the services rendered by them in killing Yusef, there are several circumstances to be taken into account.

In the first place Wajih has given no explanation of his reason for borrowing the sum of £.40 from Nehad when he had the exact amount lying idle in Hamzeh's hands.

Further there is the fact that the accused Jamil and Ali went with Obaid to Hamzeh, a few days before they committed the murder, and Ali in the presence of the other two asked whether Wajih had deposited money with Hamzeh and

was told that such was the case.

Again there is the evidence of Nihad Arafat. Nihad was closely associated with Wajih, as appears not only from the fact that he was prepared to lend him £.40, apparently without interest, and without taking a receipt, but also from the fact that he was one of the witnesses named by Wajih when he applied to the Police in January 1933 to have Yusef bound over, and was mentioned by Wajih as one of the people with whom he was at the time of the murder. (Exh.PR/1).

Now Nihad's evidence is that the sanad given by Hamzeh was endorsed over to him by Wajih a few days after he made the loan, and that three or four days after the murder he tore it up, giving as his reason for doing so that he "thought the money deposited with Hamzeh might have something to do with a conspiracy."

Finally, there is the question of the relations between Wajih and his half-brother Yusef.

That they were on bad terms is admitted by Wajih and was a matter of such notoriety that, upon hearing of the murder, the Police at once sent for Wajih and detained him.

There has been a long series of disputes between the two arising out of property. Since the beginning of 1928 there have been 22 civil actions between them in the Nablus Magistrate's Court, as well as actions in the District Court and Land Court. There is also evidence that every month for the last two years there has been at least one charged of criminal trespass between the two brothers. Finally, there is evidence that cash had applied to have the other bound over under the Prevention of Crime Ordinance, the last application having been that lodged by Wajih in January 1933.

Taking all these facts into account, we hold that the accused Wajih did counsel and procure the other accused to kill Yusef Abdel Karim, and did aid them by furnishing them

with a revolver.

The accused Obaid, Jamil and Ali all took part in the attack upon Yusef, and are all guilty of an offence under Art.170 of the Penal Code and Sec.3 of the Criminal Law Amendment Ordinance (No.2) 1927. Further, having formed a common intent to commit an unlawful purpose in conjunction with one another, namely the murder of Yusef; and in the prosecution of that purpose, an offence, having been committed, which was the probable consequence of the prosecution of such purpose, these three accused, who were all present at the commission of the offence, are all guilty under Art.170 of the Penal Code and Sec.4 of the Criminal Law Amendment Ordinance (No.2) 1927.

The accused Wajih is guilty of an offence under Art.170 of the Penal Code and Sec.3 sub-sections (c) and (d) of the Criminal Law Amendment Ordinance (No.2) 1927.

(sgd) G. C. K. Corrie J.

" A. Guy Sherwell

" Muhi. Yusef el Khaldi

" Kamel Ismail

Preliminary observation. —

ما قد اتفقنا اننا قد اتفقنا
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Palmer
 12/25

rice

2" reducer

Client only. too = 1/2 cups 99

revised 2" cups

19 nipples

It is not correct statement
 and the book is produced only for
 Corroboration his evidence

Moussa Omban
 Kette

Evidence

doubtful reliability # take a complete inducing inducing inducing

The advocate was not called

اننا قد اتفقنا اننا قد اتفقنا

He described the same Route

He heard the main broken of the glass; this indicate
 that he was very near of the place where
 the accident took place.

CHARGE SHEET.

Before the Chief Magistrate, Haifa.

In the case of:-

Attorney General

against

1. Ahmed Deeb El Ghalayini of Haifa.
2. Khalil Muid. El Issa of Haifa.
3. Ahmed Muid. Abdul Khader of Saffourieh
4. Ibrahim Ahmed El Haj Khalil of Saffourieh
5. Mustafa Ali El Ahmed of Saffourieh.

Charge:- Murder with premeditation contrary to Article 170 of the Ottoman Penal Code and Sections 3 and 4 of the Criminal Law Amendment Ordinance No. 2 of 1927.

Details of Charge:- In that the above named accused Persons with premeditation did kill one Yusef Yacoubi and his son David Yacoubi in their house at Nahalal on the night of 22/23 December, 1932, by throwing a bomb which had been prepared previously by Accused Nos. 1. and 2. The bomb was composed of an iron cap, nipple and reducer.

12th July, 1933.

His Worship,
The Chief Magistrate,
Haifa.

The above charge sheet is forwarded. Will you please fix a date for the hearing of this case.

(sgd.) G. Foley,

DISTRICT SUPT. OF POLICE
NORTHERN DISTRICT.

25.7.33.

A.G. v. Ahmed Ibn Deeb Qalayini, Khalil Muid.
Issa.

Production of copy of letter from A.G. that
further investigation is required.

Mr. Basta for Prosecution.

Application to join (3) Ahmed Muid. Abdul Kader
(4) Ibrahim Ahmed El Haj Khalil
(5) Mustafa Ali El Ahmed.

Charge explained to all accused.

Murder with premeditation contrary to Article 170
of the Ottoman Penal Code.

2nd Witness: Leabu Kaufman, sworn.

Confirms the previous evidence given by her
(p.2 and 3) and has nothing to add.

XXd. No question from 3,4 and 5 accused.

(Sgd.) Dr. Kaufman

(Sgd.) W.C. Curry

3rd. Witness Mayer Kleeman, sworn.

Previous evidence read out and translated.
pages 4,5 and 6. Witness confirms and has nothing
to add.

XXd. No question from 3rd., 4th and 5th accused.

(Sgd.) M. Kleeman

(Sgd.) W.C. Curry.

4th Witness Fredrick Henry Miller, Asst. Supt of Police
Haifa, sworn.

Previous evidence read out and translated. p. 7.
Witness confirms and has nothing to add.

XXd. No question from 3rd., 4th and 5th accused.

(Sgd.) F. Miller

A.D.S.P., Haifa
23.7.33.

(Sgd.) W.C. Curry.

5th Witness Mousa Omran, sworn.

5th Witness: Mousa Omeran, sworn.

Previous evidence read out and translated.
pages 8 and 9. Witness confirms and has nothing
to add.

XXd. No question 3,4 and 5 th accused.

(Sgd.) M. Omeran

(Sgd.) W.C. Curry.

6th Witness - Yshoe Katz - sworn.

Previous evidence read and translated (p.10)
Witness confirm and has nothing to add.

XXd. No question 3rd., 4th and 5th accused.

(Sgd.) Katz

(Sgd.) W.C. Curry.

7th Witness G.J.F. Miller - sworn.

Previous evidence read out and translated.
(p 11 and 12) witness confirms and has nothing to
add.

XXd. no question 3, 4 and 5 th accused.

(Sgd.) G. Miller

(Sgd.) W.C. Curry.

8th Witness Isaac Glexman - sworn.

Previous evidence read out and translated (p.13 and
14) Witness confirm and has nothing to add.

XXd. No question 3,4 and 5 accused.

(Sgd.).

(Sgd.) W.C. Curry.

9th Witness Behor Shitrit - sworn

Previous evidence read out and translated p. 15
Witness confirms and has nothing to add.

XXd. No question 3,4 and 5 accused.

(Sgd.) B. Shitrit

(Sgd.) W.C. Curry.

10th Witness Wilbushewich Eougen sworn.

Previous evidence read out and translated pp.

3.

pp. 16 and 17. Confirms and has nothing to add.

XXd. no questions 3,4 and 5 accused.

(Sgd.) W. Eougen.

11th Witness Agon Bergheim sworn.

Previous evidence read out and translated p. 18.

Witness confirms and nothing to add.

XXd. No question 3, 4 and 5 accused.

(Sgd.) E. Bergheim

(Sgd.) W.C. Curry.

12th Witness Raphael Meltz sworn.

Previous evidence read and translated p. 19

witness confirms and nothing to add.

XXd. No question 3, 4 and 5 accused.

(Sgd.) Raphael Meltz

(Sgd.) W.C. Curry.

6th witness Katz Yehoghem sworn.

Previous evidence at recall read and translated

p.20. witness confirms and nothing to add.

XXd. No question 3, 4 and 5 accused.

(Sgd.) Katz

(Sgd.) W.C. Curry.

13th witness Moshe Ellenboyen - sworn.

Previous evidence read and translated p. 21.

witness confirms - nothing to add.

XXd. No questions 3, 4 and 5 accused.

(Sgd.) M. Ellenboyen

(Sgd.) W.C. Curry.

14th witness Moshe Ladizensky - sworn.

Previous evidence read and translated. p. 22

witness confirms nothing to add.

XXd. no questions 3, 4 and 5 accused.

(Sgd.) M. Ladysensky

(Sgd.) W.C. Curry.

3rd witness. Mayer Klernan - sworn.

Recalled in previous examination p. 22. evidence

read and confirmed nothing to add.

XXd. No question 3, 4 and 5 accused.

(Sgd.) M. Klerman

" W.C. Curry.

10th witness W. Egoen - sworn.

~~Previous evidence read and translated p. 24.~~

~~Witness confirms and nothing to add.~~

~~XXd. No questions 3, 4 and 5 accused.~~

Recalled . Previous evidence p. 24, 25 and 26 read out and translated. Witness confirms - nothing to add.

XXd. No question 3, 4 and 5 accused.

(Sgd.) W. Egoen

(Sgd.) W.C. Curry.

15th witness. Elimelech Weiner - sworn.

Previous evidence read and translated p. 27.

Witness confirms and nothing to add.

XXd. no questions 3, 4 and 5 accused.

(Sgd.) E. Weiner

" W.C. Curry.

16th Witness - Magid Sabbagh - sworn.

Previous evidence read and translated p. 28.

witness confirms and nothing to add.

XXd. No questions 3, 4 and 5 accused.

(Sgd.) Magid Sabbagh

" W.C. Curry.

17th witness - Victor Habib Ashi sworn.

Previous evidence read and translated p. 29.

witness confirms - nothing to add.

XXd. No question 3, 4 and 5 accused.

(Sgd.) V. H. Ashi

" W.C. Curry.

18th witness Inspector Omer Waary, sworn.

Previous evidence read and translated p. 30.

Witness confirms - nothing to add.

XXd. No questions 3, 4 and 5 accused.

(Sgd.). O. Waary.

19th witness: Jamil Musa El Sharkawi - sworn.

Previous evidence read and translated p. 31 and 32.

Witness confirms - nothing to add.

XXd. No questions 3, 4 and 5 accused.

(Sgd.) Jamil Musa Sharkawi

" W. C. Curry.

3rd Witness: Mayer Klerman - sworn.

Recalled again. Previous evidence read and translated p. 33 and 34. Witness confirms save that he says table is about 1.50-1.75 metres long and not 2.25-2.50 as previously stated. Witness again alters his statement and says the original measurement is correct.

XXd. No questions 3, 4 and 5 accused.

(Sgd.) Mayer Klerman.

" W.C. Curry.

20th witness - Munire Abu Fadel - sworn.

Previous evidence read and translated p. 35.

Witness confirms and has nothing to add.

XXd. No questions 3, 4 and 5 accused.

(Sgd.) M. Abu Fadel

" W.C. Curry.

21st witness: Mousa Diab - sworn.

Previous evidence read and translated p. 36.

Witness confirms and has nothing to add.

XXd. No questions 3, 4 and 5 accused.

(sgd.) Mousa Diab.

" W. C. Curry.

22nd Witness: Shkiam Shonlamil Jacobi - sworn.

Previous evidence read and translated p. 37.

Witness confirms and has nothing to add.

Prosecution given leave to put further question.

We had one window in which one pane of glass was missing from before. There were two windows in the room. There was net wire over one of the windows.

On the window which leads to the yard. Before the crime only one pane was broken in the windows - not the window which leads to the yard. In the window which leads to the yard the panes were all in tact. I heard (?) but I do not know whether the noise was of breaking of glass. I did not look before going to Hospital to see whether any glass had been broken. XXd. No questions 1, 2, 3, 4 and 5 accused.

(Sgd)

" W.C. Curry.

23rd Witness. Ishak Allenhanes - sworn.

I know the shop of Zumermans. I bought some pipe fittings there. I buy many things from Zumermans. I bought two cups like these (J.A. 21) I bought them in 1932.

XXd. No questions by my accused.

(Sgd.)

" W.C. Curry.

Hearing adjourned until 9 a.m. 26.7.33.

26.7.33.

24th witness. Inspector A. Rabinovitch - sworn.

On the night of 22.12.32. ~~shank~~ a bomb was thrown into the house of Jacobi at Nahalal as a result Musaf Jacobi and his sons were killed. I was at Nahalal ~~at~~ on that night. The A.S.P. Mr. Riggs was also there. I was present when Mr. Riggs picked up the pieces of a bomb in the house. There were 2 pieces (witness identifies them as A.W.R.1 and A.W.R. 1(S) The pieces were handed over in my presence to Capt Rice Deputy I.G. C.I.D. The house of the victim is composed of 3 rooms and a kitchen. The pieces of the bomb were found in the bedroom - i. has two windows. One window faced the cow-shed. A pane of glass was broken and the pieces of glass were found on the floor. A pane of the other window was also broken - but there were no pieces

on the floor. There is a partition dividing this room FROM The drawing room and at the bottom of the partition on the floor there was a hole caused by a bomb.

XXd. No questions by any accused.

Witness bound over etc.

(Sgd.) A. Rabinovitch

" W.C. Curry.

25th witness : Said Mohd el Haj Abdel Majid
of Saffoureh - sworn.

I am the Mukhtar of Saffoureh village. I remember on 10.4.33 I was present when the Police searched the house of the 5th accused. We entered the house of the 5th accused and we found a rifle in one of the rooms. It was near a cupboard in the storeroom. This is the rifle (S.M.22) There were five rounds in the magazine. We also found a brindle containing 16-17 rounds in the drawer of the cupboard (S.M. 27) A constable of the name of Ahmed Jaber, was with us he was standing ~~xxx~~ inside the room. Ahmed Jaber called me and the British Cpl. saying that a bomb and a box of cigarettes had been through by a woman behind the house. Ahmed Jaber said the woman was the wife of the 5th accused. Myself and the British Corpl. went out to see Ahmed Jaber. I noticed a bomb lying behind the house and a box of cigarettes. This is the bomb (S.M.24) and this is the box of cigarettes (S.M.25) It contained a few cigarette papers. Only the 5th accused and his wife were in the house when we entered. The British Corpl. took the rifle and the bomb.

XXd. No questions by any accused.

(Sgd) Said ~~xxxx~~ Mohd. Haj
" W.C. Curry

Witness bound over etc..

(Sgd.) Said Mohd El Haj
" W.C. Curry.

26th witness: Cpl. Petric - sworn.

I remember on 10.4.33 I proceeded to Saffureh on duty. I found Const. Dyke No. 68 outside the house of the 5th accused. I gave him instruction that no one was to leave or enter the house. I then proceeded to search some ~~the~~ ~~xxxx~~ other houses in the village and returned to this house about 7.30-8. a.m. The door of the house was opened by the wife of the 5th accused. She came out of the house and went up the passage by the side of the house. I instructed Ahmed Jaber the Palestinian Const. to follow and watch her. I entered the house. I had been in the house about 2 secs. when Const. Ahmed Jaber shouted out that the woman had thrown a bomb over the wall. When I arrived in the passage the woman was about 1 metre from the wall. I climbed over the wall accompanied by the Mukhtar and P.C. Ahmed Jaber. On ~~xxxxxx~~ reaching the top of the wall I could see the bomb and cigarette box lying in the next yard about 2 metres away from the wall. These are they (S.N. 24 & 25). I climbed over and took the bomb and cigarette box. I then returned to the front of the house and asked the 5th accused if they belonged to him. About the bomb he would not reply. The cigarette box he said was his.

I handed the articles to P.C. Dyke and ~~xxxxxx~~ carried on the search. Nothing else was found in the room. In the second room, door of which was unlocked by the 5th accused a German rifle was standing against a wardrobe to the right of the door. I found it was loaded with 4 rounds in magazine and 1 in the breech(?). The 5th accused admitted the rifle belonged to him. The No. of the rifle is 9569 - German Mauser. This is the rifle (S.N. 22) A statement was taken from the accused. Ahmed Jaber handed me another 17 rounds he found in the in a small piece of cloth.

XXd. No questions by any accused.

Witness bound over etc. (Sgd.) Petric
" W.C. Curry.

27th witness: Ahmed Jaber Ahmed - sworn.

I searched the house of 5th accused on 10.4.33. in the morning about 8 a.m. I was standing outside the house. I ~~xxx~~ saw the wife of the 5th accused throwing a bomb and a box of cigarettes. I called the British Copl. and the Mukhtar to come quickly. They were in the house. The Copl, Mukhtar and 5th accused came out. After we had confiscated the bomb and cigarette box we searched another room. There we found a rifle, it was loaded with 5 rounds - 4 in the magazine and in in the breech. (identifies Exp. S.22, 23 and 24) I also found 17 rounds. In reply to the British Copl. the 5th accused admitted the rifle was his.

XXd. No questions.

Witness bound over etc.

(Sgd.) Ahmed Jaber No. 785

" W.C. Curry.

7th witness: G.J. Miller - sworn. Recalled.

I examined the fragments of a bomb found in a house at Nahalal. Later I received a complete bomb for examination and comparison. My opinion is that the structure of S.M. 24 and its general appearance is very similar to that found on the scene of the crime. I consider the pieces of a bomb I saw at Nahalal would make a bomb ~~xxxx~~ identical with S.M. 24. This is the powder (F.M.26) I took out of the bomb. Mr. Cosgrove examined it with me. I made a report this is it (F.M.27). The bomb was "live" when I examined it.

S.M. 24 is the complete bomb I received for examination.

XXd. No question by any accused.

witness bound over etc.

(Sgd.) G. Miller

" W.C. Curry.

28th witness: Inspector Badawi - sworn.

I took a statement from the 1st accused at Acre Prison on 13.7.33. I cautioned him in accordance with the law. I informed him of the charge. He gave me this statement (M.B.28). He refused to sign it. On the same day I took this statement from the 2nd accused in Acre prison. After cautioning him (M.B. 29) He refused to sign it.,

On 8.7.33 I took this statement from the 4th accused. After cautioning him (M.B.30).

On 29.5.33. I took this statement from 5th accused, after cautioning him (M.B.31).

Muhd. Ahmed El Toli is the same man as Ahmed Muhd. Abdul Kader - the 3rd accused.

Accused No. 5 at his request was brought before the British Magistrate on 30.5.33 when he made a statement. This is it M.B. 32. The statements read out in Court. XXd. No question by any accused.

Witness bound over etc.

(Sgd.) M. Badawi

" W.C. Curry.

4th witness - Z.H. Miller - recalled - sworn.

The 5th accused went with me at his request to the scene of the crime on 3.6.33 at 10.30 a.m. Sgt. Ahmed Naif No. 829 and British Const. Wheiskey No. 55 accompanied us. We went to a point in the Nazaret Rd. nearly opposite the Nahalal Colony. Here we met Mukhtar Saleh Ibrahim Abu Tabeekh of Samourri village and the Mukhtar Hassan Muhd of Alost village. I asked the prisoner his name. he stated it to be Mustafa Ali Ahmed of Saffourah village. He indicated to me his to shew me the route followed of places stopped at by the persons accompanying him on the night of the Nahalal bombing 5-6 months ago. He lead me north the road. (this is my report put in P.M.N. 33 read and

translated.)

I know Arabic to speak and I knew quite well what the 5th accused said to me at that time.

XXd. No questions by any accused.

(2nd accused here objects to Insp. Klieman going out of the Court. Insp. Klieman states he went to fetch the next witness).

Witness bound over etc.

(Sgd.) J. Miller
A.S.P. Haifa.
" W.C. Curry.

29th witness:- Const. J. Wheakley - sworn.

I proceeded to the scene of the crime on 28.12.32 I made a map at that time. I also made a map when I went with Mr. Miller and the 5th accused on 3.6.33. This is a plan of the house, I made as a result of the visit on 28.12.32 (J.W.34) and copy. This is a plan of the house and immediate vicinity and copy (J.W. 35). This is a plan of Nahalal Colony (J.W.36) and copy.

This is a plan I made with Mr. Miller on 3.6.33 (J.W. 37) and copy these are photos made by me at the same time (J.W.38). I know the tracker Mousa Deeb of Nazareth. He showed me some tracks when I prepared the first map. I compared the direction of tracks as given by Mousa Deeb and subsequently given by the 5th accused. These are shown on J.W. 37 in red and green ink.

XXd. No questions

witness bound over etc.

(Sgd.) John Whealkey.
W.C. Curry.

21st witness: Mousa Deeb $\frac{1}{2}$ tracker - sworn. recalled.

I am police tracker. I remember the incident at Nahalal. I went to the Colony at that time. I do not remember the date. When I went I searched for foot prints. I saw tracks of three persons. The tracks started from the near the fence which is round the colony. The tracks were of persons with shoes. Tracker Saleh el Waash was with me. The tracks went towards the north until we reached the main road. On the north of this road we saw the same 3 tracks. We followed the tracks to a place called Khillet el Sissim to the north of Samouna village and there the tracks disappeared at the spot where the tracks disappeared the road leads to Saffourieh and Alcol villages. The reason the tracks disappeared was because the land was rocky and there were many other people pass. I know Const. Wheatley I showed him the tracks from the beginning to end. I noticed in the middle of one of the vineyards marks of a man having fallen to the ground and the mark of a bolt of a rifle on the ground. The tracks were very clear. The vineyard is about 100 metres N. of Nahalal. I know that the vineyard belong to the Colony. Court. I cannot understand a map. I examined the tracks on the same night as that of the crime. I walked from Nahalal to Saffourieh village It took me about 2 hours and 2 minutes.

XXd. No questions by any accused.

Witness bound over etc.

(Sgd.) Mousa Diab.
H.C. Curry.

30th witness: Saleh Ibrahim Abu Taliah - sworn.

I know the 5th accused. I saw him with a policeman at Samooni village. I live there. The Police Officer called for me there about 1 month or 20 days ago. I went with him and 5th accused. I latter shewed us the place called Wadi Diba, Samouri and a treee called Maleh Natouf. Then we went to Nahalal Colony and there 5th accused shewed us several places. I cannot say what the places were. I was at a sistance. Sgt. Naif and the Police Officer and 2 constables were there. I was then called to Nazareth, I there signed a report.

COURT: The report was read over to me. I understood the report.

XXd. No questions

witness bound over etc.

Thumb print

(Sgd.) W.C. Curry.

31st witness: Sgt. Naif - sworn.

On 3.6.33 I was with Mr. Miller at Nahalal Colony. The 5th accused was with us. The 30th witness was also there. We were there for the 5th accused to shew us at his request where he was with the other accused on the occasion of the Nahalal murder. All the time I was with the 5th accused. He shewed us the place behind well-Waar. There he said he met with the other accused. He said he came from Saffouriah with accused Nos. 2,3 and 4. He said he came with the persons and there accused No.2 whistled. Then 1st accused appeared and there he went with them passing waste land until they came to a tree. He pointed out the tree under which they sat and from there he said, he and first and 2nd accused proceeded to Nahalal Colony through thus way - he then pointed out the way. When we arrived at Nahalal Colony 5th accused said

he with the other two entered a garden, i.e. with accused No. 1 and 2. He stood in the garden, accused 1 and 2 left him and entered a house (which accused pointed out to us). We enquired whose house it was and we were told it was the house of the victim Jacobi. I made a report on the same day at Haifa. The report was signed by the 30th witness the same day at Nazareth. The 5th accused also signed it on the same day. I read the report over to them. I know the 3rd accused. I took a statement from him on 13.5.33. He signed it after having been told the charge and being cautioned. I produce it (A.N. 39) KKM (read out).

On 15.5.33 I was at Nazareth police station to take a remand warrant in respect of 3rd accused. I obtained remand from the Magistrate there. I went with the said accused to the police station. We handed him over to the lock up. I went to the Magistrate's Court and there I met Mr. Basta. I went into the room of Mr. Rabinovitch and there I heard a conversation between two persons in an adjoining room. The conversation was regarding the Nahalal case. I made a report of the conversation as I heard it. I recognised one of the persons from his voice as the 3rd accused and later on I knew the 2nd KKM KKM person was advocate Shaffic Eff. Zoobi. I knew KKM KKM because they passed KKM the door of the room in which I was sitting and I saw them and I was then sure they were the 3rd accused and Shaffic Eff. Zoobi. I gave my report to Mr. Basta. This is my report (A.N. 40)

I was for some time in charge of Saffourieh police station - about 3rd, 4th or 5th month of 1932. There is a Y.M.M.A. there. I know accused 3, 4 and 5. They are members of the Y.M.M.A. I used to attend the meeting and I saw them there. The people formed the society - 1. Mohd. Said Abdel Moti (2) Sh. Issal el Kassam of Haifa and others. That society comes under the supervision of the police. I do not know the aim of the society.

I know the 2nd accused he lives in Haifa. I have seen him in Saffourieh village once only. I saw him at a meeting of the Y.M.K.A. I have seen 1st accused at Saffourieh at the same meeting of the Y.M.K.A.

XXd. No question by accused.

witness bound over etc. (Sgd.) Ahmed Naif

" W.C. Curry.

32nd. witness:- E.T. Cosgrove - sworn.

When Mr. Miller, the armourer, examined the complete bomb I was present. (he identifies it with Exh. SM24). There was a white powder which I sent to the Govt. Analyst. This is the powder (S.M. 26) Mr. Miller in my presence the contents of the new bomb and I examined the fragments of the bomb found at the time of the crime and compared them with the new bomb. I came to the conclusion that the old bomb was of the same type as this new bomb. That the ripples were of the same type. The hole bored in the cap was bored in the same way. Some of the fragments of metal - both the flat - half round appeared to have been cut in the same vice(?). The diamond shaped fragments in the new bomb were cut at approximately the same angle as similar pieces found at the scene of the Nahalal crime. The new bomb contained some cylindrical pieces of metal which compared with similar pieces found at the scene of the Nahalal crime. (witness identifies Exhs. AWRI(d), LK3, AWRI, AWRI(a), AWRI(f), AWRI(e), SJF 11, AWRI2, AWRI(c), AWRI(b)).

The new bomb was ready for use when I saw it. I endorsed the report of Mr. Miller.

XXd. No questions. (Sgd.) E.T. Cosgrove

witness bound over etc. " W.C. Curry.

Case adjourned until 9. a.m. 27.7.33.

27.7.33.

33rd. witness: Suleiman Ahmed Abdul Ghani - sworn.

I am from Saffourieh village. I remember the bomb

outrage at Nahalal. It took place 5-6 months ago. At that time I was at Saffourieh village. A Policeman arrived at our village and began to search the houses. After the policeman left the village we understood that a bomb had been exploded at Nahalal Colony and two persons killed. I was at Saffourieh village the day before the police came, and ~~remained~~ remained that day there until sunset. I know all of the accused. I saw at Saffourieh village the 2nd, 3rd, 4th and 5th accused, the day before the police came. I saw them at the door of the Mosque of the village at the evening prayer of sun set. I also saw them praying in the Mosque - I was also praying. After the prayers every one left and I saw accused Nos. 2 and 5 outside and I heard No. 5 invite No. 2 to go to his house. Then I saw them go towards the house of No. 5. They were then about 100 metres from the house. I then went home About 9 p.m. that night I left Saffourieh to Jawarnis Arabs on the western side of our village in the land of Abosh village. The Arabs are in tents. I arrived at the camp about midnight and left about 1-2 hours before dawn. When I left I went to Saffourieh village. At about midnight when I was going to the Arabs at Saffourieh springs which are outside the village about 1 1/2 hours walking I heard sounds of persons talking. I was frightened they might be police as I had contraband tobacco so I hid myself. Three men passed me whilst I was hiding, they were coming from south and going towards Saffourieh village. I recognised them as the 3rd, 4th and 5th accused. I saw 5th accused carrying arms. I cannot say if it was a rifle or shot gun. In coming from the south they were coming from the direction of Abot lands. I went to Jarawis Arabs to sell my tobacco. I got to know 2nd accused because he came twice to our village of Saffourieh and I also saw him in Haifa when I came. On the first occasion I saw him with Sh. Saleh and another person unknown to me. I saw them leave their car in the village and going to the

western quarter of the village. On the 2nd occasion I saw him with accused No. 5 ~~with~~ in the Mosque. ~~XXd.~~ by 2nd accused.

I do not the date I saw you at Saffourieh village - it was 4-5 days before Ramadan. It was about sunset. I cannot say how many persons were praying in the Mosque. There were several. Those who were praying were from our village. I know the persons of my village. I cannot say the number of persons in the Mosque perhaps 20-30. If a stranger entered the Mosque I expect the others there could notice. I do not know if any one else saw you in the Mosque. The Mosque is open and there is nothing inside to prevent people seeing. No questions by the other accused. witness bound over etc.

(Sgd.) Sulisman Ahmed Abdel Nabi
W.C. Curry.

34th witness:- Saleh Amin El Abed - sworn.

I am from Saffourieh village. I know accused Nos. 3, 4 and 5. I remember Mahalal bomb outrage. The day before the incident I was at Saffourieh village - I was there all day. I saw Nos. 3, 4 and 5 accused the day before the incident in the Mosque at Saffourieh. I heard about the Mahalal case the following morning (witness now states that he meant he saw Nos. 3, 4 and 5 accused in the evening in the Mosque and the next morning he heard of the Mahalal case). The evening I saw them in the Mosque would be the same ~~as~~ night that the outrage took place. After prayer I left for my house. After I ~~had~~ had my food I left for my uncle's house. It was about 1/2 an hour after the evening prayer. I went to Abdel Magid Abdel Hamid. The house is on the eastern side of the village. It is near the house of Abdel Hamid Taha. I saw accused 3, 4 and 5 coming out of the direction of the house of the 5th accused. I saw two other persons with them. I recognised accused No. 2, the other

I did not recognise. I entered my uncles house. They were going southwards, they were then near the house of Muhd. Issa and there they disappeared from my sight.

XXd. by 2nd accused.

You are Khalil Muhd. Issa. I saw accused 2, 34 and 5 in the Mosque. There were numerous people in the Mosque. I know the men who were praying there. I remeber seeing Muhd. Sh. Yusef, Yusef Selim Sheikh, Muhd. Abdel Rahim, Muhd. Abdulla Khalil, Khalil El Ali, Moheeda Rashid, The Mosque is open and there is nothing to prevent people in the Mosque seeing each other.

Court: I am related to the 3rd accused.

I also saw 2nd accused in the Mosque (in his first statement he did not mention No. 2).

witness bound over etc.

(Sgd.) Saleh Ahmed.

" W.C. Curry.

35th Witness: Muhd. Mustafa Ali - sworn.

I am from Abbot village. I remember the Mahalal bomb outrage. I heard of it the next morning. I was in my kamaa village the night of the incident and then I for the Waar about midnight or shortly before. I left with Ali Ibrahim Sulieaan. We were riding donkeys. We met three persons at a place called Khallet El Sumsim. They were walking. They were coming from Samoun plains. We challenged them who they were. They replied "go your way as we are going our way". When we challenged them they left their road and went aside. They were about 20 paces from us. The road they were on leads to Saffourieh, Abbot and Jaramis Arab Camp. I did not recognise these three persons as it was a dark night. We returned to our village before noon.

XXd. No questions.

R.O. and Co.

witness bound over etc.

(Sgd.) W.C. Curry and thumb print of withn.

36th witness:- Ali Ibrahim Sulleman - sworn.

I am of Aboot village. I remember the Nahalal bomb outrage. I was at the begining of that night at Aboot village. I left the village with the 36th witness about after midnight. We went to the Wear. We were walking but had donkeys with us. We met three men on our way at a place called Khallet Sumain. We challenge them " who are you" They replied "Go your way" They then left the route and went aside. I did not recognise them. It was dark. They were about 20 metres away. They were coming from the western direction. There are several villages there Nahalal, Jida. They were going towards the East - It leads to Beit Lahem, Um El Awad and Saffourieh. COURT: I do not know any of the accused.

R.O. and C.

witness bound over etc.

Thumb print of witness

(Sgd.) W. C. Curry.

37th witness:- Taha Ahmed Taha - sworn.

I heard about the Nahalal bomb outrage. I was in Haifa when I heard about it, about 4-5 days before the fast of Ramadan. I heard about it about 2-3 days after it happened. I know the 1st and 2nd accused. I am a member of the Y.M.W.A. at Haifa. I am not a member I am a subscriber. 1st and 2nd accused are members of that society. 20 months ago I was a subscriber and I left it about 7-8 months ago. I met the 1st and 2nd accused in several places in Haifa, lastly I met them in the house of Mahmoud Zaroum. I met the 1st and 2nd accused 2 -3 days before the Nahalal outrage at the house of Mahmoud Zourom. On that occasion I heard 2nd accused say: "I am proceeding with accused No. 1 to Saffourieh village" I did not know why they were going, but they usually meet together. On the next day I saw

them at bout 4 p.m. leaving the house of El Abd in Abbasieh street Haifa beyond the house of Haj Khalil Taha. I spoke to them. I asked them why they had not gone to Saffourieh village. They replied "now we are going". I know nothing more. I have seen them meet at El Abd's house 100's times.

XXd. No questions.

R.O. & C.

witness bound over etc.

(Sgd.) Taha Muhd.

" W.C. Curry.

38th witness:- Muhd. Said Abdel Mout'i - sworn.

I am from Saffourieh village. There is a society the Y.M.M.A. there. I am a member. I am the President. I found it with several people. I know the 3rd, 4th and 5th accused and Abu Ibrahim. Abu Ibrahim is the 2nd accused. I do not know the first accused. The 3rd., 4th and 5th accused were subscribers to the society. We invited the Haifa members of the Y.M.M.A. to attend our meetings. The second accused was amongst those who attended. I heard about the Nahalal bomb outrage. We invited them twice. The invitations were before the outrage. I cannot say how long before.

XXd. No questions. R.O. and c.

witness bound over etc. (Sgd.) Muhd. Said Abdel Mout'i

" W.C. Curry.

39th witness:- Mansour Nasser P.C. 1249 - sworn.

I remember the Nahalal outrage. I was one of the Saffourieh out post. The Nazareth police informed the Saffourieh police after about midnight. At that time I was sent by the Police to go to Saffourieh village to enquire into the case. I was in uniform.

XXd. No questions.

witness bound over etc. (Sgd.) Mansour Nasser
W.C. Curry.

21.

CASE FOR PROSECUTION.

Accused informed of the charge in ordinary language.

Statutory caution administered.

1st accused	Reserves Defence.
2nd	do
3rd.	do
4th	do
5th	do

I commit the 5 accused for trial before the
Assize Court of Murder with premeditation contrary
to Article 170 of the O.P.C. and Sections 3 and 4
of the Criminal Law Amendment Ordinance No. 2 of 1927.

(Sgd.) W.C. Curry.

JUDGMENT.-

The accused, Obaid Mustafa Haser, Jamil Ali Said and Ali Abed Hamdan, are charged with having stabbed Yusef Abdel Karim Abdel Hadi with daggers, thereby causing his death, contrary to Art.170 of the Penal Code and Sections 3 and 4 of the Criminal Law Amendment Ordinance (No.2) 1927.

The accused, Vajih Abdel Karim Abdel Hadi, is charged with premeditated murder under the same Sections. The charge against him is that he aided, counselled and procured the three other accused to commit the offence.

Yusef Abdel Karim lived in a house in Sharia Habs ed Dam, Nablus, the entrance being at a distance of less than 30 metres from its junction with Sharia Seral el Qadin, at a point 65 metres east of the square in which the clock Tower stands.

At about one hour after sunset the sound of a shot was heard in Sharia Habs ed Damm. Witnesses who went to see what had happened, found Yusef lying dead in Sharia Seral el Qadime, a few metres West of the bottom of Sharia Habs ed Damm. Two stab wounds were found in the body, one of them being fatal.

Between the door of Yusef's house and the place where his body lay, spots of blood were seen in the roadway.

The accused, Obaid, was arrested on the morning of the 1st of July; and on the 8th July he made a statement in which he admitted that he had taken part in the murder. (Exh.HMK/2).

Obaid now declares that he made the statement in question because he was beaten by the Police. There is, however, no evidence of this except his own statement; and to the contrary there is the evidence not only of the Police themselves, but of a witness, Hamzeh Haj Said, who was under arrest at the same time, and states that Obaid never complained of having been beaten. We see no reason,

therefore/

therefore, to exclude evidence of this confession.

Apart from the confession, moreover, there is other evidence against this prisoner.

About 3/4 of an hour after sunset on the 30th of June, that is to say, 1/4 of an hour before the murder was committed, Obaid and another of the accused were seen by Faiz Hussein Libbadeh going from the Clock Tower Square along Sharia Seral el Qadiseh in the direction of Sharia Habs ed Dam: and about ten minutes later Faiz saw Yusef Abdel Karim going in the same direction.

Muhammad Shakib Abdel Hadi who lived in the same house as Yusef Abdel Karim, returned home shortly before him and passed two men in Sharia Habs ed Dam, one of whom he subsequently identified as Obaid.

There is also the evidence of Abdel Jabbar Muhammad el Abed who saw Obaid and the other two accused together in a shop in Nablus on the afternoon of June 30th, at which time Obaid alleges that he was not in Nablus.

Obaid moreover admitted to the Police that he and two other persons had spent the night before the murder at the Ikbal Hotel in Nablus; having registered there under false names which he gave to the Police. The hotel keeper was unable to identify Obaid or either of his companions, but the hotel register for the night in question contained an entry of the three names given by Obaid.

The names given were those of three persons living in Qabalan, and it is to be noted that the defence did not call any of these persons to prove that they had stayed at the Ikbal hotel on the night in question.

Obaid also pointed out to the Police the garden of Muhammad Aja; adjoining Sharia Habs ed Dam where he said he had thrown his dagger while running away after the commission of the murder and on searching this garden, the

dagger/

dagger was found there. Obaid further pointed out another garden near Ras el in into which he said he had thrown the sheath of the dagger; and upon search being made, the sheath was found in that garden.

Evidence was also given by Hamzeh Haj Said as to the deposit of a sum of EP.40 with him by the accused Wajih, to be paid to the person who produced the Sanad which he, Hamzeh, had handed to Wajih. Hamzeh further gave evidence that Obaid, together with the accused Jamil and Ali came to him and one of the other accused in Obaid's presence inquired from him whether the money had really been deposited with him by Wajih, and that he had replied that such was the case. The sum of EP.40 in question was actually found in Hamzeh's possession by the Police.

Apart from the question of a reward, there is also the evidence of Faiz Libbadeh that Obaid bore enmity towards Yusef.

We find that Obaid is guilty of the premeditated murder of Yusef Abdel Karim.

The accused, Ali Abed Hamdan, who was arrested on the 9th July, made a confession to the Police on the 13th July after having been duly charged and cautioned. (Exh.VM/2). He too alleges that he was beaten, but in his case also there is the evidence of Hamzeh/Haj/Said that he made no complaint of having been beaten; and we hold that the confession is admissible in evidence.

Ali, who denies that he was in Hablus on the afternoon before the murder, was seen there in company with Obaid by Abdel Jabbar. Moreover, Hamzeh Haj Said testifies that Ali, in company with Obaid and Jamil came to him to inquire about the money deposited with him by Wajih.

This evidence is confirmed by evidence given by the Police as to a conversation between the accused and Hamzeh in the Police Station with regard to the money deposited by

Wajih/

Wajih and the Sanad given by Hamzeh in respect of it. We should not have allowed evidence to be given as to this conversation by questions put to a prosecution witness on behalf of the accused Ali.

Ali also picked out the dagger found in Muhammad Ajaj's garden from a number of other daggers and stated that it belonged to Obaid.

In his confession, Ali stated that he was carrying a revolver on the night of the crime and that he shot at Yusef, but missed him. This is corroborated by the fact that a revolver was found thrust into a crack in a heap of building stone just opposite the entrance to Yusef's house. One chamber of the revolver contained an empty case and smelt of powder. Further, a holster which, it has been proved, was made to fit the revolver in question, was produced by Ali from his village where it was in the custody of one of his relatives. No explanation of his production of this holster consistent with his innocence has been put forward on Ali's behalf.

We find the accused Ali guilty of the premeditated murder of Yusef Abdel Karim.

The accused, Jamil Ali Said, who was arrested on the 2nd July; and evidence was given that on the 14th July, after having been charged and cautioned, Jamil made a detailed confession. (Exh. MB/3).

The Police Officer to whom this statement was made, gave evidence that Jamil was not threatened; that no promise was made to him; that he was duly cautioned and that his statement was made freely and voluntarily; and accordingly it was admitted in evidence. Subsequently, the witness Hamzeh Haj Said, who was under arrest at the same time as Jamil and was released on the 14th July, stated that the day before he himself was released, Jamil was weeping and groaning and complaining that the Police had beaten him. In view of

Hamzeh's/

Hamzeh's statement, we hold that the evidence as to the confession made by Jamil the following day is inadmissible, even although before he made it, Jamil was duly cautioned.

See R. v. Doherty 13 Cox 23, cited in Archbold's Criminal Pleading, 28th Edition, at p.402.

We have therefore to consider what other evidence there is against Jamil.

Now Hamzeh states that seven or eight days before the murder, Jamil came to him with the two murderers, Obaid and Ali, and was present when Ali asked whether the money had been deposited with him by Wajih; and was told that SP.40 was deposited with Hamzeh and would be paid to the person by whom the sanad given by Hamzeh was produced.

There is also the evidence of Abdel Jabbar Muhammad el of Abed/Qaryut, who saw Jamil in Nablus on the afternoon of the murder in company with Obaid and Ali, and later in the same afternoon saw Jamil again with Ali in the latrines by the great Mosque. Abdel Jabbar further gives evidence that on the following day, Jamil came to him in Qaryut and asked him not to tell anyone that he had seen him in Nablus.

Finally, Jamil was seen by Faiz Libbadeh with Obaid going from the Clock Tower Square towards Sharia Habs ed Damm three quarters of an hour after sunset. We know that Obaid was then on his way to Yusef's house with the object of committing the murder: and that Yusef was in fact killed about a quarter of an hour later, at a point less than 100 metres away from the spot where Obaid and Jamil were seen together.

In view of Jamil's knowledge of the money deposited with Hamzeh, and in the absence of any attempt to prove that his association with obaid just before the murder was innocent and ceased before the actual commission of the crime, we find the accused Jamil guilty of the premeditated murder of Yusef Abdel Karim.

Against/

Against the accused Wajih Abdel Karim it has been proved that the revolver found in the stone-heap opposite Yusef's door-way was Wajih's property.

Until the commencement of the trial, Wajih denied all knowledge of the revolver. In Court, however, he had admitted that he formerly owned the revolver, but stated that about six months before the murder he had sold it to his cousin Hikmet Ahmad Abdel Hadi.

Hikmet denies this allegation: and while we are not disposed to place much reliance upon him as a witness, we do not believe Wajih's story.

Wajih also admits having deposited £P.40 with Hamzeh Haj Said. He explains that he intended to go out to Qaryut and buy seeds and cattle. The deposit was made according to Wajih's own statement, about a month before the murder: i.e. about the 1st June.

On the 17th June Wajih borrowed £.40 from Nehad Arafat, for the purpose of paying experts' fees in connection with an action, and buying cattle. Wajih gave no receipt for the sum borrowed, but a few days later he endorsed over to Nehad the bill for £.40 signed by Hamzeh.

In determining whether the deposit with Hamzeh was made for a lawful purpose; or was, as the prosecution allege, a means of securing to the other accused payment for the services rendered by them in killing Yusef, there are several circumstances to be taken into account.

In the first place Wajih has given no explanation of his reason for borrowing the sum of £.40 from Nehad when he had the exact amount lying idle in Hamzeh's hands.

Further there is the fact that the accused Jamil and Ali went with Obaid to Hamzeh, a few days before they committed the murder, and Ali in the presence of the other two asked whether Wajih had deposited money with Hamzeh and

was/

was told that such was the case.

Again there is the evidence of Nahad Arafat. Nahad was closely associated with Wajih, as appears not only from the fact that he was prepared to lend him £.40, apparently without interest, and without taking a receipt, but also from the fact that he was one of the witnesses named by Wajih when he applied to the Police in January 1933 to have Yusef bound over, and was mentioned by Wajih as one of the people with whom he was at the time of the murder. (Exh.FR/1).

Now Nahad's evidence is that the sanad given by Hamzeh was endorsed over to him by Wajih a few days after he made the loan, and that three or four days after the murder he tore it up, giving as his reason for doing so that he "thought the money deposited with Hamzeh might have something to do with a conspiracy."

Finally, there is the question of the relations between Wajih and his half-brother Yusef.

That they were on bad terms is admitted by Wajih and was a matter of such notoriety that, upon hearing of the murder, the Police at once sent for Wajih and detained him.

There has been a long series of disputes between the two arising out of property. Since the beginning of 1928 there have been 22 civil actions between them in the Nablus Magistrate's Court, as well as actions in the District Court and Land Court. There is also evidence that every month for the last two years there has been at least one charged of criminal trespass between the two brothers. Finally, there is evidence that each had applied to have the other bound over under the Prevention of Crime Ordinance, the last application having been that lodged by Wajih in January 1933.

Taking all these facts into account, we hold that the accused Wajih did counsel and procure the other accused to kill Yusef Abdel Karim, and did aid them by furnishing them

with/

with a revolver.

The accused Obaid, Jamil and Ali all took part in the attack upon Yusef, and are all guilty of an offence under Art.170 of the Penal Code and Sec.3 of the Criminal Law Amendment Ordinance (No.2) 1927. Further, having formed a common intent to commit an unlawful purpose in conjunction with one another, namely the murder of Yusef; and in the prosecution of that purpose, an offence, having been committed, which was the probable consequence of the prosecution of such purpose, these three accused, who were all present at the commission of the offence, are all guilty under Art.170 of the Penal Code and Sec.4 of the Criminal Law Amendment Ordinance (No.2) 1927.

The accused Wajih is guilty of an offence under Art.170 of the Penal Code and Sec.5 sub-sections (c) and (d) of the Criminal Law Amendment Ordinance (No.2) 1927.

(sgd) G. C. K. Corrie J.

" A. Guy Sherwell

" Muhi. Yusef el Khaldi

" Kamal Ismail